

**ELECTIONS COMMISSION**

Meeting Minutes

August 11, 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, 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 5:34 p.m. in Room W-262 of City Hall, 200 E. Santa Clara Street, CA 95113.

**II. Closed Session**

None

**III Approval of Minutes**

Action: Upon motion by Commissioner Smith, seconded by Commissioner Shepard, and unanimously passed, the Study Session Minutes of April 29, 2010. Vote: 4-0-1

Action: Upon motion by Commissioner Smith, seconded by Commissioner Louie, and unanimously passed, the Regular Meeting Minutes of May 12, 2010. Vote: 4-0-1

Action: Upon motion by Commissioner Smith, seconded by Commissioner Louie, and unanimously passed, the Regular Meeting Minutes of June 9, 2010. Vote: 4-0-1

**IV. Report of the Chair**

None.

## V. Reports of the Clerk/Attorney

- A. Report on the Rules and Open Government Committee discussion regarding the Responses from the Election Commission about Pay to Play Regulations and Voluntary Expenditure Limits

Senior Deputy City Attorney Lisa Herrick reported on the July 28, 2010 Rules and Open Government Committee discussion regarding the Elections Commission Response to referrals from the City Council regarding "Pay to Play" regulations for certain contractors and Voluntary Expenditure Limits (VEL). The Committee agreed to forward on to the City Council the Commission's Response regarding "Pay to Play" regulations and referred back to the City Attorney's Office for additional research on the increased costs associated with elections for City Council. She added that she will return to the Rules and Open Government Committee at a later date with this information.

Senior Deputy City Attorney Lisa Herrick also reported that she had received formal advice from the Fair Political Practice Commission (FPPC) regarding the City's new requirements that independent committees, whose filing officer is not the City Clerk, file copies of campaign disclosure reports with the City Clerk. The advice letter indicated that the City's requirement is inconsistent with the FPPC regulations and suggested that the City remove the requirement. Senior Deputy City Attorney Lisa Herrick noted that although staff disagrees with that analysis she will draft an ordinance eliminating that provision, as well as repealing contribution limits on independent committees, modifying language in the section regarding electioneering communications commission and making other minor, technical revisions. She explained that she will send the draft ordinance out to stakeholders for input before submitting to the City Council for consideration. The Commission will be kept apprised.

## VI. Discussion Items

- A. Update on Status of Current Contracts with the Independent Evaluator and Independent Investigator.

Document Filed: (1) Memorandum from Vice Chair Michael Smith to Elections Commission dated August 5, 2010 regarding timeliness of Elections Commission Investigations. (2) Memorandum from Hanson Bridgett to Elections Commission dated August 11, 2010 regarding timeliness of Elections Commission Investigations.

City Clerk Lee Price reported that the contract with Hanson Bridgett was extended for an additional six month and will expire on December 31, 2010. She added that the contract with the Independent Investigator has expired.

Evaluator Mike Moyer summarized his memo in response to Vice Chair Smith's memo. Vice Chair Smith provided background about his research and recommendations. Chair de Funiak indicated he would meet with City Clerk Lee Price and Senior Deputy City Attorney Lisa Herrick to look at ways to procedurally address the scheduling of hearings.

**B. Review and Discuss Draft Request for Qualifications (RFQ) for the Independent Evaluator and Independent Investigator.**

This item was continued to September 8, 2010. City Clerk Lee Price will send out the draft Request for Qualifications to members of the Election Commission via email for their review and feedback.

**VII. Meeting Schedule and Agenda Items**

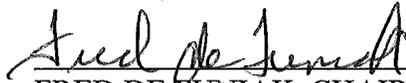
The next Regular Meeting is scheduled for Wednesday, September 8, 2010. Agenda items to include discussions regarding the Draft Request for Qualifications (RFQ) for the Independent Evaluator and Independent Investigators and the scheduling of hearings on complaint.

**VIII. Public Comment**

There was none.

**IX. Adjournment**

The meeting adjourned at approximately 7:03 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