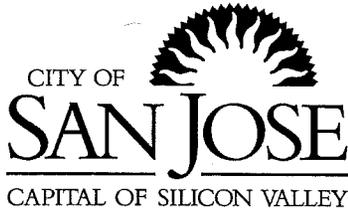


EC 2/9/11
Item # III



ELECTIONS COMMISSION
Meeting Minutes
November 10, 2010

ROLL CALL

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

ABSENT: Chair de Funiak

STAFF: City Clerk Lee Price, 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 5:37 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 Louie, seconded by Commissioner Shepard, the Commission unanimously approved the Meeting Minutes of October 13, 2010.

IV. Report of the Chair

None.

V. Reports of the Clerk/Attorney

City Attorney Lisa Herrick reported on the October 27, 2010 lobbyists stakeholders meeting and mentioned that some information will be going out to the non-profit community as to how the lobbying ordinance works in other jurisdictions that do not exempt non-profits.

She informed the Commission that the memo forwarding the recommendations regarding changes to the Elections Commission regulations is complete and will be going forward to the City Council on November 30, 2010. She added that revisions to the Campaign Finance Ordinance will also be moving on to the City Council at the same time.

VI. Report of the Evaluator

Mike Moyer reported that a complaint was filed on October 7, 2010 and that the investigation has been completed. He explained that his report and recommendations have been submitted to the City Clerk and requested a hearing and explained that he anticipated the need for 45 minutes to conduct the hearing. Mr. Moyer added that he expected to issue a supplemental report, but noted that he did not think the report would change his recommendations.

VII. Discussion Items

- A. Evaluation of Responses to Request for Qualifications for Investigator; Interviews of Prospective Individuals and/or Representatives
- B. Evaluation of Responses to a Request for Qualifications for Evaluator/Investigator and Interviews of Prospective Individuals and/or Representatives.

These items were taken up concurrently.

Vice Chair Mike Smith provided background and outlined the interview process that would be followed.

The Commission interviewed the following individuals and/or representatives from firms submitting proposals for investigator, evaluator, or investigator/evaluator: Thomas Consulting; Rank Investigations; Fu-Gen; VanDermyden, Allison; Gautam Dutta; Hanson Bridgett, LLP; and Renne, Sloan, Holtzman & Sakai.

The Commission took a short break. Discussion ensued.

- C. Selection of an Investigator, Evaluator and/or Evaluator/Investigator

Action: Upon motion by Commissioner Shepard, seconded by Commissioner Louie, the Commission unanimously approved the selection of Hanson Bridgett as the Evaluator/Investigator. (Vote 4-0)

VIII. Meeting Schedule and Agenda Items

The next Regular Meeting is scheduled for Wednesday, December 1, 2010. The sole agenda item will be the hearing on the current complaint (Thomas Nguyen complainant).

IX. Public Comment

City Clerk Lee Price forwarded communications on behalf of Terry Reilly regarding the outcome of the instant runoff elections held in Alameda County in November.

X. Adjournment

The meeting adjourned at approximately 8:09 p.m.

MIKE SMITH, VICE CHAIR

ATTEST:

LEE PRICE, MMC
CITY CLERK and SECRETARY TO THE COMMISSION

ELECTIONS COMMISSION
Meeting Minutes
December 1, 2010

ROLL CALL

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

ABSENT: None.

STAFF: Senior Deputy City Attorney Lisa Herrick, City Clerk Lee Price, Evaluator Joan Cassman, 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 5:48 p.m. in Room W-262 of City Hall, 200 E. Santa Clara Street, CA 95113.

II. Hearing on Complaint

- A. Hearing on the complaint filed on October 7, 2010 by Thomas Nguyen alleging violations of the San Jose Municipal Code campaign finance regulations.

Documents Filed: (1) Memorandum with attachments from Hanson Bridgett LLP to San Jose Elections Commission dated November 8, 2010 regarding a Citizen Complaint alleging violations of the Campaign Ordinance: Failure to Register as a Committee, Failure to File Campaign Reports. (2) Supplemental Memorandum with additional attachments from Hanson Bridgett LLP to Elections Commission dated November 30, 2010. (3) Transcript of Hearing dated December 1, 2010, Reported by Noelia Espinola, CSR, License Number 8060, Advantage Reporting Services.

Chair de Funiak, outlined hearing procedures and opened the public hearing. Evaluator Joan Cassman summarized the Independent Evaluator's Report and Recommendations. Testimony was presented by Thomas Nguyen and Paul Le. (See transcript for complete testimony).

Evaluator Joan Cassman summarized the Independent Evaluator's Supplemental Report. Testimony was presented by Nguyen Khoi, Robert Sandoval, Charlie Ly and Ton Ngo. (See transcript for complete testimony).

The Commission deliberated.

Action: Upon motion by Commissioner Cosgrove, seconded by Commissioner Smith, the Commission unanimously adopted the Evaluator's Recommendation to dismiss the complaint and allegations related to programming on Que Hong radio. Vote 5-0

Action: Upon motion by Commissioner Smith, seconded by Commissioner Cosgrove, the Commission directed the Evaluator to conduct an initial assessment regarding allegations of possible violations by the Quan Tam Cong Dong newspaper and to report back to the Commission at the January 12, 2011 meeting. 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. Further actions by the Commission were postponed pending direction to and report out by, the Evaluator.

III. Public Comment

Terry Reilly gave a brief summary of results using Instant Run-Off Voting in the recent San Francisco District 10 Supervisor Race.

IV. Adjournment

The meeting was adjourned at approximately 8:01 p.m.

FRED DE FUNIAK, CHAIR

ATTEST:

LEE PRICE, MMC
CITY CLERK and SECRETARY TO THE COMMISSION

Attachment: Transcript of Hearings dated December 1, 2010, Reported by Noelia Espinola, CSR, License Number 8060. Advantage Reporting Services