

ELECTIONS COMMISSION
Special Meeting Minutes
February 15, 2012

ROLL CALL

PRESENT: Chair Smith, Commission Members Edgeworth, Louie and Pierre Dixon

ABSENT: Vice-Chair Cosgrove

STAFF: Senior Deputy City Attorney Lisa Herrick, City Clerk Dennis Hawkins,
and Senior Deputy City Clerk Nora Pimentel

ORDER OF BUSINESS

I. Call to Order

The members of the San Jose Elections Commission convened at 5:38p.m. in Room W-262 of City Hall, 200 E. Santa Clara Street, CA 95113.

II. Adoption of Agenda

Upon motion by Commissioner Pierre Dixon, seconded by Commissioner Edgeworth, the Commission unanimously adopted the Agenda for the February 15, 2012 Special Meeting.

III. Public Comment

None.

IV. Closed Session

None.

V. Approval of Minutes

The January 11, 2012 minutes were deferred.

VI. Reports

- A. Chair-None**
- B. City Attorney-None**
- C. City Clerk-None**
- D. Investigator/Evaluator-None**

VII. Items scheduled for Action

- A. Adoption of a Public Statement regarding the Commission finding of violations of San Jose Municipal Code Campaign Ordinance: Soliciting/Receiving Contributions Outside of the Campaign Contribution Period by the Silicon Valley Association of Republican Women (SVARW).**

Documents Filed: Draft of Public Statement of the San Jose Elections Commission regarding the Conduct of the Silicon Valley Republican Women The Commission discussed and edited the draft public statement prepared by City Clerk Dennis Hawkins.

The Commission reviewed the draft and members offered suggested revisions.

Public Comments: Rayshelle Brant spoke on behalf of Johnny Khamis and expressed Mr. Khamis' desire to be kept anonymous in any further dialogue regarding this matter. Mr. Khamis received a letter from Silicon Valley Association of Republican Women (SVARW) shortly after the hearing stating that the SVARW had expelled him and his wife from the organization because of their "slandorous behavior". The Khamis' hope is that any further discussion after tonight's meeting be limited to the SVARW public statement accepting responsibility for their violations and apologizing for not exercising due diligence and knowing campaign regulations before becoming involved in helping elect qualified Republicans to office.

Janette Nedde, President of SVARW spoke on behalf of SVARW she mentioned that after the hearing held on January 17, 2012 SVARW board determined that Johnny Khamis violated the ethical standards of the organization and because of that a letter was sent to him and his wife stating that they were no longer welcome to be members of SVARW. She stated that Mr. Khamis sent her a response, which felt was a threat to her that she forwarded a copy of the letter to the City Clerk. She also mentioned that Mr. Khamis was highlighted in a candidate profile in the Almaden Times; he wrote a letter to the editor thanking them for the article and again disparaged the SVARW, and she has submitted a response to the newspaper. SVARW is requesting that the statement include that Mr. Khamis filed the complaint against Ms. Reynolds and SVARW and that the promotion of the Christmas party was an unintentional violation of the San Jose Municipal Code. In addition, SVARW would like the Commission to consider the fact that Mr. Khamis publicized the hearing through his letter to the editor. SVARW hopes

that the commission agrees with their position that these letters to the editor should satisfy requirement E within the Elections Commission Resolution #2012-01 as a "public statement". In conclusion the SVARW board has decided that after the statement from this committee is finalized and printed and submitted to them they will be placing all the materials associated with this complaint and the hearing on the SVARW web site to be accessible by the members and by persons on their email list, about 500 people. Ms. Nedde said that they would like to maintain their credibility as an organization and would never want to repeat this process.

Commission questions and discussion followed.

Jan Soule member of the SVARW board said that SVARW was not aware that of the solicitation rules, but that they were aware of the contribution period beginning on December 10. She stated that they are not a fundraising organization, but that they do endorse and help candidates.

Commission discussion continued.

Action: Upon motion by Commissioner Louie, seconded by Chair Smith, to leave the draft as is except for the comments in paragraphs 1 and 2 already agreed on and leave paragraph 3 as is. Motion failed (2-2-0) Commissioners Louie and Smith in favor, Commissioners Edgeworth and Pierre Dixon Opposed, Vice-Chair Cosgrove Absent

Commission discussion ensued.

Action: Upon motion by Commissioner Pierre Dixon, seconded by Commissioner Edgeworth to submit with the changes already requested as to paragraphs one and two and that amend paragraph three to read "that there is evidence that the organization was aware of the rules and yet violated". Motion failed. Vote: (2-2-0) Commissioners Pierre Dixon and Edgeworth in favor; Chair Smith and Commissioner Louie Opposed, Vice-Chair Cosgrove Absent

Action: Upon motion by Commissioner Edgeworth, seconded by Commissioner Pierre Dixon that the Commission approved to eliminate the last sentence all together. Vote: (4-0) Vice-Chair Cosgrove Absent

Chair Smith clarified the motion to be that the first two paragraphs with the edits from earlier in the discussion are to be kept and the third paragraph as it with first sentence only and second sentence removed.

Commissioner Edgeworth proposed a motion to add a subsidiary note that the candidate, Leslie Reynolds, was not found to be in violation. Motion failed due to lack of a second.

Senior Deputy City Attorney Lisa Herrick noted for the record that she will amend the resolution.

VIII. Items scheduled for Information or Discussion

A. Report on 2012 Elections

City Clerk Dennis Hawkins reported that election season has begun with nomination period opening on Monday, February 13, 2012. He mentioned that his office has prepared a binder that been issued to the candidates to acquaint them with Title 12, FPPC regulations, sign ordinance, and other procedural matters. Candidates are encouraged to file their nomination paperwork early before the closing of the nomination period on March 9, 2012 at 12:00 noon. He mentioned that the City no longer subsidizes the candidate's campaign statement; any candidate who desires to have their statement in the sample ballot pamphlet must pay the cost of publication as determined by the Registrar of Voters. The City Clerk's web site is being updated with the names and contact information of the candidates. He mentioned that "Frequently Asked Questions" from candidates and treasurers will be posted to the Clerks web page.

B. Legislative Update

- Status of Proposed changes to Gift Ordinance

Senior Deputy City Attorney Lisa Herrick reported that there were no changes at this time.

C. Review of Elections Commission special eligibility requirements and restrictions regarding campaign activities

Documents Filed: Excerpt from Title 2, Chapter 8 of the San Jose Municipal Code "2.08.1630 Special eligibility requirements".

Senior Deputy City Attorney Lisa Herrick reviewed the San Jose Municipal Code sections that relates specifically to the Elections Commission. She highlighted that while serving on the commission no member will hold an elected public office, no member will publically endorse any candidate for city office or engage in any political or campaign activity on behalf of any candidate for city office. She encouraged Commissioners to contact her if they have any specific questions. She mentioned council policy 0-4 and 0-36 that pertains to Boards and Commission as it relates to election activities.

Commission discussion and questions followed.

IX. Meeting Schedule and Agenda Items

The next regular meeting is scheduled for March 14, 2012 at 5:30 p.m.

X. Adjournment

The meeting was adjourned at approximately 7:11 p.m.



MICHAEL SMITH, CHAIR

ATTEST:
ELECTIONS COMMISSION
DENNIS D. HAWKINS, CMC, SECRETARY



Dennis D. Hawkins, CMC, Secretary