



CITY OF SAN JOSE, CALIFORNIA

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SAN JOSE ELECTIONS COMMISSION

Fred de Funiak, Chair
Michael Smith, Vice Chair
Leon Louie
Robert Shepard
Erica Cosgrove

SAN JOSE ELECTIONS COMMISSION SPECIAL MEETING MINUTES April 30, 2009

I CALL TO ORDER

The members of the San José Elections Commission convened at 5:32 p.m. in Room W-262 of City Hall, 200 E. Santa Clara Street, San José, CA 95113.

PRESENT: COMMISSIONERS: Cosgrove, Louie, Shepard, Smith, and de Funiak

ABSENT: COMMISSIONER: None

STAFF PRESENT: Senior Deputy City Attorney Lisa Herrick
City Clerk Lee Price
Deputy City Clerk Michelle Radcliffe
Evaluator Mike Moye
Evaluator Joan Cassman

II HEARING ON COMPLAINT

A. Hearing on the Independent Evaluator's Report and Recommendations on a complaint filed on December 8, 2008 alleging that Tom McEnery, John McEnery IV and Urban Markets, LLC violated San José Municipal Code ethics regulations

Documents Filed: 1) Report from Hanson Bridgett LLP dated April 24, 2009 regarding the Complaint filed by John Doe alleging that Tom McEnery, John McEnery IV and Urban Markets, LLC violated San José Municipal Code ethics regulations; 2) Response of John Doe to April 24, 2009 Memorandum of Hanson Bridget LLP regarding Complaint filed

against McEnergy/Urban Markets; 3) Correspondence from Kenneth J. Machado, Jr. dated April 29, 2009 regarding the Complaint filed on December 8, 2009/Hanson Bridgett Memorandum; 4) Correspondence from Eric Sahn, President of the San José Downtown Association, dated April 30, 2009 regarding the hearing on the Independent Evaluator's Report and Recommendations; 5) Correspondence from Santa Clara County Supervisor Dave Cortese dated April 30, 2009; and 6) Written statement by Carl Guardino, President and CEO of Silicon Valley Leadership Group; and 6) Reporter's Transcript of Hearing dated April 30, 2009. Reported by Noelia Espinola, CSR, License Number 8060, Advantage Reporting Services, No. 23886)

Evaluator Mike Moyer presented an oral report and responded to questions by the Commission. Testimony was heard from Ken Machado, Jr. Commission deliberations and public comments followed. (See Reporter's Transcript Pages 3 through 53)

Action: Upon motion by Commissioner Shepard, seconded by Commissioner Louie, and unanimously passed, the Commission dismissed all charges against the Respondents Tom McEnergy, John McEnergy IV, and Urban Markets, LLC. (4-0-1)

Action: Each commissioner certified that he/she reviewed the entire record and evidence in this case and based his/her decision on the review.

Action: Upon motion by Commissioner Shepard, seconded by Commissioner Louie, and unanimously passed, the Commission authorized the City Attorney to prepare a resolution of the findings made and authorized the Chair to sign it.

III DISCUSSION ITEMS

- A. Continued discussion on the City's campaign finance regulations relating to (1) contribution limits generally; (2) inflation adjustments on contribution limits; (3) limits on contributions to independent expenditure committees; (4) segregation of contributions to independent expenditure committees; and (5) disclosure of contributions to independent expenditure committees.

This item was deferred to May 13, 2009.

IV MEETING SCHEDULE AND AGENDA ITEMS

The next Regular Meeting is scheduled for May 13, 2009 at 5:30 p.m.

V PUBLIC COMMENT

There were none.

VI ADJOURNMENT

The meeting adjourned at 6:47 p.m.



FRED DE FUNIAK, CHAIR

ATTEST:



LEE PRICE, MMC
CITY CLERK and SECRETARY TO THE COMMISSION