



(Approved July 18, 2019)
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF HEARING, Public Session
Thursday, June 13, 2019
10:00 a.m.

Present: Chair Miadich, Commissioner Hatch, and Commissioner Hayward

Staff Present: Thomas Jones, Executive Director
Dave Bainbridge, General Counsel
Brian Lau, Assistant General Counsel
Galena West, Enforcement Chief
Karen Harrison, Commission Counsel
Kevin Cornwall, Commission Counsel
Jay Wierenga, Communications Officer
Sasha Linker, Commission Assistant

A. Call to Order

Chair Miadich called the meeting to order at 10:00 a.m.

B. Public Comment for Items not on the Agenda

No public comments for items not on the agenda.

C. Approval of Minutes of Prior Meeting

MOTION: Approve the May 16, 2019 meeting minutes. Moved by Commissioner Hayward, seconded by Commissioner Hatch. Motion approved 3-0.

D. Approval of Enforcement Consent Calendar

Chair Miadich asked that items 6 and 7 be removed from the consent calendar and taken separately so they could be discussed.

MOTION: Motion to approve Enforcement Consent Calendar, items 3-5, 8. Moved by Chair Miadich, seconded by Commissioner Hatch. Motion approved 3-0.

The Commission discussed item 6, In the Matter of Eric Payne For SCCCD 2016 Trustee Area 2 and Eric Payne. Commissioner Hayward inquired about the Committee's use of cashiers' checks and whether such usage might indicate an effort to hide further improper activity. Enforcement Chief West stated that there was no evidence of such a pattern, and added that Respondent Payne had begun submitting appropriate forms. Enforcement Chief West suggested that, given recent compliance regarding the filing and amendment of his Statement of Economic Interests, and consistent with past Commission practice, the Commission should consider reducing the proposed penalty on Mr. Payne from \$37,000 to \$25,000, reducing the penalty for Counts 16 – 21 from \$5,000 per count to \$3,000 per count.

MOTION: Motion to approve item 6 with the fine for Mr. Payne individually lowered to \$25,000. Moved by Chair Miadich, seconded by Commissioner Hatch. Motion approved 3-0.

The Commission discussed item 7, the Matter of Santa Ana Committee for Safe Neighborhoods (etc.) and Van Ton. Chair Miadich asked if the individual Respondent had cooperated in the investigation. Enforcement Chief West stated that Mr. Ton had not cooperated, except for a few correspondence through email, and that he had been the subject of previous enforcement action. In response to a question by Commissioner Hatch, Chief West stated that, although the Enforcement Division was unable to prevent a delinquent Respondent from opening up a committee under a different name, the Division now had the capacity to track the individuals who opened up committees and could use that information to enforce compliance.

MOTION: Motion to approve item 7, and to request that the Administrative Division of FPPC pursue a lien on Respondent's property if the penalty was unpaid. Moved by Chair Miadich, seconded by Commissioner Hayward. Motion approved 3-0.

E. Repeal of Regulation 18329 and Adoption of Regulation 18329.

MOTION: Motion to approve regulation package. Moved by Chair Miadich, seconded by Commissioner Hayward. Motion approved 3-0.

F. Adoption of Non-Substantive Amendments to Various Regulations.

MOTION: Motion to approve the regulation package. Moved by Chair Miadich, seconded by Commissioner Hatch. Motion approved 3-0.

G. Update on Enforcement Agreements with Municipalities.

Executive Director Jones updated the Commission on the status of drafting the contracts contemplated by California Government Code Sections 83123.5 and 83123.6. Prior to submitting the contracts for Commission approval, Director Jones intends to present the final drafts to the Law & Policy Committee for the purpose of reviewing compliance with the statute, and to the Budget & Personnel Committee to review any contractual items affecting budget and personnel. No action was taken by Commission.

H. Committee Updates.

Commissioner Hayward updated the Commission on the Budget & Personnel Committee Meeting. Chair Miadich asked that the Law & Policy Committee update be taken up with the Legislative Update.

I. Legislative Update.

Dave Bainbridge, General Counsel and Jay Wierenga, Communications Officer, gave an update on current and pending legislation. Regarding AB 201 (Campaign disclosure; mass text ads), Commissioner Hatch asked staff to research whether the public disclosure of top contributors could be made using the colloquial names of the committees, rather than the legal name or registration number. Staff will research and report back to the Law & Policy Committee. Regarding AB 1752 (Committee Registration fee; penalty), Commissioner Hatch asked that staff send a letter regarding the fiscal impact to Senator Umberg.

MOTION: Motion to have a “support” position on AB 220. Moved by Commissioner Hatch, seconded by Commissioner Hayward. Motion approved 3-0.

The Commission discussed SB 71 (Campaign Expenditures; sexual harassment). Although recognizing that the current bill is a modest improvement to the current status of the law, the Commission expressed discomfort in being on record as sponsoring a bill that, in current form, would allow candidates and elected officials to use campaign funds to defend against sexual harassment allegations.

MOTION: Motion to change the Commission’s position from “sponsor” to “support if amended” on SB 71. Moved by Commissioner Hatch, seconded by Chair Miadich. Motion approved 3-0.

MOTION: Motion to adopt Law & Policy Committee recommendation to instruct staff to move forward with legislation to set a dollar threshold for when additional contributions from a contributor require a committee to amend a T10 contributor list. Moved by Chair Miadich, seconded by Commissioner Hatch. Motion approved 3-0.

J. Minner Advice Letter.

The Commission heard oral public comment from Leanna Crabtree (Cupertino Resident), Sean Welch (Nielsen Merksamer, representing Sand Hill Property), Robert Perlmutter (Shute, Mihaly & Weinberger, representing City of Cupertino). No action was taken by the Commission.

K. Advice Letter Report and Commission Review.

The written advice letter report was accepted as submitted, without further action by the Commission.

L. Executive Staff Reports.

The written Executive Staff reports for the Legal and Enforcement Divisions were accepted as submitted, without further action by the Commission. Executive Director Jones gave an oral update on three items: 1. Recent budgetary issue on the settlement in the Burgess matter that equates to almost \$300,000; 2. The 45th anniversary of the Political Reform Act is this year and

Staff is hoping to have a joint ceremony in August 2019; 3. Pursuing to have the annual COGEL conference be held in Sacramento in 2021.

M. Commissioner Comments and Proposed Future Agenda Items.

Commissioner Hayward asked that Staff look into whether we have regulatory latitude to tighten the current law with respect to “behested payments” to prevent use of such funds in a manner that appears to personally benefit a public official. Unrelatedly, Commissioner Hatch asked that a closed session be scheduled at the next Commission meeting to discuss the status of pending litigation. Finally, Commissioner Hatch and Chair Miadich asked that the issue of the “public generally” exception be placed on the agenda for the next meeting, and asked Legal Staff to draft a memo on the exception in advance of the discussion.

N. Adjourn

MOTION: Motion to adjourn the meeting. Moved by Commissioner Hatch, seconded by Commissioner Hayward. Motion approved 3-0.

The meeting adjourned at 12:01 p.m.

Respectfully Submitted,
Sasha Linker
Commission Assistant
Approved July 8, 2019

Richard C. Miadich, Chair
Fair Political Practices Commission