

# Memorandum

To : Memo to File

Date : June 14, 1976

*M-76-439*

From : Nan Hambleton  
FAIR POLITICAL PRACTICES COMMISSION

Subject: Letter from W.E. Smith, City Clerk, City of Milpitas,  
dated May 14, 1976

I telephoned Mr. Smith today. Advised that Gov. Code Sections 3600, et seq. apply now only to planning commissioners and officers, and that Sections 87200-87207 apply to councilmen and city managers. He had already clarified with city attorney requirement of their ordinance and also his questions re campaign disclosure re their 7/27/76 recall election.

# MEMORANDUM

TO : [Name]

FROM : [Name]

SUBJECT : [Subject]

1. [Text]

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May 14, 1976

City Clerk

Fair Political Practices Commission  
Attn.: Ms. Nan Hambleton  
1100 K Street - P. O. Box 807  
Sacramento, Calif. 95814

Dear Ms. Hambleton:

Following is a request for an informal interpretation of filing requirements pertaining to the Conflict of Interests legislation.

Enclosed are copies of our ordinances on the subject; one was passed by the Milpitas City Council and the other by the Milpitas Sanitary District Board of Directors (an elected body).

Regarding "officials" as defined in Section I-30-2.00 of Ordinance No. 177, except for Councilmen, Commissioners, City Manager, Planner and Assistant Planner, need these file annual Statements of Economic Interests (G.C. 87200-87207) or (G.C. 3600-3760) - or any statements at all?

With reference to Milpitas Sanitary District Ordinance No. 5, is the requirement for Disclosure Statements, annual (G.C. 3600-3760) applicable to Sanitary District Board members? (The Milpitas Sanitary District is a separate legal entity. The board members earn less than \$100 per month).

Also enclosed is a schedule of reporting forms for office holders which I drew up for my own guidance. I would appreciate your looking it over for accuracy.

Sincerely yours.

W. E. Smith  
City Clerk

encl.

6-3-76 Reply not yet received.  
WES





# City of Milpitas

455 E. Calaveras Blvd.  
Milpitas, California 95035  
(408) 262-2310



June 2, 1976

Mr. Haskell M. Goodman  
210 N. 4th Street  
San Jose, CA 95112

Dear Jack:

There is an apparent discrepancy in deadline dates for proponents of recall measures in instructions of the Fair Political Practices Commission as applied to our Special Recall Election scheduled for July 27, 1976.

Under III.B. (page 4) of the instructions (copy enclosed), committees must file the first of two pre-election campaign statements by either the 40th or the 35th day prior to the election. This would be June 17, 1976 or June 22, 1976 respectively. Under III.E. (page 5), it states that the deadline for filing by proponents is 65 days after the date of qualification of the petition. Since the petition was declared qualified on April 22, 1976, this would be June 26, 1976.

Does this mean that three pre-election campaign statements are due from the proponents or only that one is required in a recall election?

Incidentally, in the schedule I drew up, I used the same dates for the committee as for the "recallee", who is classified as a "candidate". This is the 40th and 12th day prior to the election for the pre-election statements and 65 days after the election for the post-election statement.

Please advise if a change in instructions to the proponents will be necessary.

Sincerely,

W. E. Smith  
CITY CLERK

WES/C22/4

Enc.

cc: Fair Political Practices Commission ✓

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# City of Milpitas

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Does this mean that three pre-election campaign statements are due from the proponents or only two that one is required in a recall election?

Incidentally, in the schedule I drew up, I used the same dates for the committee as for the "recall", who is classified as a "candidate". This is the 40th and 35th day prior to the election for the pre-election statements and 65 days after the election for the post-election statement.

Please advise if a change in instructions to the proponents will be necessary.

Sincerely,

W. E. Smith  
CITY CLERK

WES/CLL/A

Enc.

cc: Fair Political Practices Commission

COPY

a calendar year, she is a "Major Donor Committee" and must file periodic reports. She would report the \$5,000 as contributions to the various committees, and the committees would report the money as contributions from Joan Q. Smith.

#### **D. Proponents of Ballot Measures**

The proponents of ballot measures have special

filing requirements whether or not they qualify as committees, and must file campaign statements. Proponents must file campaign statements after qualifying a measure for the ballot. If the measure fails to qualify, they still must file after the final deadline for circulating petitions.

## **II. WHAT FORMS MUST BE FILED?**

### **A. Candidates and Elected Officeholders**

**Form 470—Candidates Campaign Statement, Short Form:** This form may be used only by those candidates and elected officeholders who have neither raised nor spent more than \$200 or in whose behalf not more than \$200 has been raised or spent since the date of the most recent post-election statement or since January 7, 1975 if the candidate or elected officeholder has not previously filed a post-election statement.

**Form 430—Candidates Campaign Statement:** This form must be used by all candidates and elected officeholders not eligible to use the short Form 470.

### **B. Committees**

**Form 410—Statement of Organization:** This form must be filed by all committees which receive contributions of \$500 or more during a calendar year ("Recipient Committees"), "Expenditure Committees" and "Major Donor Committees" do *not* file Statements of Organization.

**Form 420—Committee Campaign Statement:** This form may be used by any committee. However, committees which receive a cumulative contribution of \$50 or more from a single source must file this form.

**Form 440—Major Donor Campaign Statement:** This form may only be used by "Major Donor Committees."

**Form 450—Association Campaign Statement:** This form may be used by "Recipient Committees" if *no* cumulative contribution of \$50 or more has been received from any single source since the committee filed its last post-election statement. If single source contributions of \$50 or more have been received, Form 420 must be used.

**Form 460—Committee Short Form:** This form may only be used by "Expenditure Committees."

### **C. Proponents of Ballot Measures**

**Forms 420 or 450:** These forms may be used by proponents of ballot measures.

## **III. WHEN MUST STATEMENTS BE FILED?**

*Statements must be received by the appropriate filing officer by the filing deadline. It is not sufficient to send the statements by ordinary mail post-marked as of the filing deadline. However, statements mailed first-class registered mail (not certified mail) will be considered received on the date of the postmark.*

### **A. Statement of Organization—FORM 410**

Any person or entity receiving \$500 or more in contributions in a calendar year is a "Recipient Committee" and must file a Statement of Organization within ten days of such receipt.

### **B. Pre-election Campaign Statements and Reports of Late Contributions**

Candidates and committees supporting or opposing candidates must file two pre-election campaign statements, the first by the 40th day and the second by the 12th day prior to the election. (See Section D below for special and run-off election filing schedules.)

Committees supporting or opposing ballot measures must file two pre-election campaign statements,

the first by the 35th day and the second by the 7th day prior to the election.

Committees which support or oppose both candidates and ballot measures may choose the filing schedule for either candidates or ballot measures, but they must follow one schedule consistently.

The closing date for pre-election campaign statements is three days before the filing deadline. Pre-election statements may not be filed before the closing date.

**Late Contributions:** Any contribution of \$1,000 or more received prior to the election, but after the "closing date" of the last pre-election statement, must be reported within 48 hours to the appropriate filing officer. It must be reported by any written means of communication, such as telegram or letter. The late contribution report does not have to contain an original signature but must contain the name, street address, occupation and employer, or principal place of business, if self-employed, of the contributor. The same information must be reported again on the next campaign statement filed.



**C. Post-election Campaign Statements**

Candidates and committees supporting or opposing candidates must file campaign statements not later than 65 days after the election.

Committees supporting or opposing ballot measures must file campaign statements not later than 70 days after the election.

The closing date for post-election campaign statements is seven days before the filing deadline. However, if prior to the closing date, all liabilities have been paid and no additional contributions or expenditures are expected, the campaign statement may be filed at any time after the election and before the deadline. The early filing applies only to post-election statements.

*Once a candidate or committee files a pre-election statement, each must continue to file until a post-election statement is filed, even if there are no further transactions.*

**D. Special Elections and Run-offs**

A different schedule for the filing of campaign statements must be followed in the case of a special election or any other election for an office for which there is, or may be, a run-off within sixty days of the first election.

The pre-election statements are due:

- 33 days prior to the first election;
- 7 days prior to the first election;
- 7 days prior to the run-off.

The post-election statement is due:

- 65 days after the run-off.

The closing date for the three pre-election statements is three days before the filing deadline. The closing date for the post run-off election statement is seven days before the due date. However, if prior to the closing date, all liabilities have been paid and no additional contributions or expenditures are expected, the campaign statement may be filed at any time after the election and before the deadline. The early filing applies only to post-election statements.

A candidate who is unsuccessful in the special primary election and is not a candidate in the run-off election and committees supporting such a candidate, need not file the campaign statement between the primary and the run-off. But such candidate and committees must file a post-election statement no later than 65 days after the final election. The candidate and committees may not file until after the run-off election.

**E. Ballot Measure Proponents**

A proponent of an initiative, referendum or recall measure must file a campaign statement following the circulation of petitions. The statement must be filed, whether or not the proponent is successful. If the initiative, referendum or recall is successful in qualifying, the deadline for filing is 65 days after the date of qualification. If not successful, the deadline is

65 days after the final date for circulating petitions. In either case, the closing date is seven days prior to the deadline for filing the campaign statement.

**F. "Off-Year" Statements**

**Elected Officeholders:** An elected officeholder must file semiannual campaign statements during off-election years. The statements cover six-month periods, and must be filed whether or not the officeholder received contributions or made expenditures. However, if the officeholder was required to file a campaign statement in connection with another election or elections held during a six-month period, the "off-year" statement need not be filed at the end of that period.

*Elected officeholders whose salaries are less than \$600 in a six-month period, and judges need not file "off-year" campaign statements unless they receive contributions or make expenditures during the period.*

**Candidates:** All candidates who are not officeholders are required to file "off-year" campaign statements if they have received contributions, made expenditures or given their consent for any other person to receive contributions or make expenditures with the aim of bringing about their nomination or election to any elective office. However, if they were required to file campaign statements in connection with any election or elections held during the six-month period, they need not file an "off-year" statement for that period.

**Committees:** All committees, "Recipient," "Expenditure" and "Major Donor," supporting or opposing state and local candidates, or supporting or opposing ballot measures must file "off-year" campaign statements if they have received contributions or if they have made expenditures in support of or opposition to candidates or measures. However, if they were required to file campaign statements in connection with any election or elections held during the six-month period, they need not file an "off-year" statement for that period.

The schedule for "off-year" statements is:

<i>Period Covered</i>	<i>Due By</i>
January 1 through June 30 .....	July 31
July 1 through December 31 .....	January 31

**Reminder:** *If the elected officeholder, candidate or committee files a statement within one of these six-month periods in connection with any election during the period, no "off-year" statement is due for that particular six-month period. The next "off-year" statement would be due after the end of the succeeding six-month period and would cover the time from the closing date of the last post-election filing to the end of the most recent six-month period.*

**G. Unopposed Incumbent Candidates for Judicial Office**

Incumbent candidates for judicial offices whose names do not appear on the ballot because they are



5/10/76

CITY OF MILPITAS  
ADMINISTRATIVE CALENDAR  
SPECIAL RECALL ELECTION - JULY 27, 1976

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APRIL 21 Certification of signatures on recall petition received from Registrar of Voters.

Prepare Clerk's certificate and attach to petition.

APRIL 22 Forward copy of certification to proponents of the recall.

Agendize for Council meeting of May 4. Election to be ordered not less than 74 nor more than 89 days. Recommend July 27.

Prepare resolution calling special election.

APRIL 23 Order Spanish translation for Notice of Election.

MAY 6 Order Notice of Election to be published May 12. (May 19 last day).

Request services of Registrar from Board of Supervisors.

MAY 10 Order Spanish translations for ballot, statement and answer.

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Call and/or send inquiries to prospective election officers; apply for use of schools. Send preliminary list of consolidated precincts to Registrar.

Obtain precinct count.

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MAY 14 Give Purchasing information to start bidding procedure for ballots (official paper must be obtained from Secretary of State).

Order precinct supplies.

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MAY 27 Order ballot measures published June 2 and 9 (July 7 and 14 last days).

JUNE 7 Order sample ballots, statement and answer (for delivery June 17).  
Order official and absent voter ballots (for delivery June 28).

Agendize appointment of precinct boards, polling places, salaries and resolution for Clerk to canvass vote for June 15 Council meeting.

Order Spanish translation for Notice of Appointment Election Officers and Designation of Polling Places (See San Jose Post-Record of Feb. 13, 1976 for form).

JUNE 10 Mail campaign statement forms to candidate and committees.



Special Recall Election - July 27, 1976 (cont.)

- JUNE 17 Deliver sample ballots, statement and answer to Registrar.  
Order list of election officers, polling places and hours published June 23 (July 7 last day).  
Mail election officer appointments, Digests and Inspector's Declaration forms. Send list of consolidated precincts and polling places to Registrar.  
First campaign statements due (thru June 14).
- JUNE 27 Registration closes.  
Memo to P.W. Dept. (Parks) to arrange for pickup and delivery of election supplies to polling places.  
Pick up Indices from Registrar.
- JUNE 28 Pick up official and absent voter ballots (if not already delivered).  
thru Mail out absent voter ballots (including those in Precinct 4403 -  
JULY 20 not consolidated).  
Check that all Inspector's Declarations are in.
- JULY 8 Mail campaign statement forms to candidate and committees.
- JULY 15 Second campaign statements due (thru July 12).
- JULY 16 Last day to mail sample ballots and separate printed copies of statement of proponents and answer of the officer sought to be recalled. (By Registrar).  
Make up election officers' payroll.
- JULY 19 Make up receipts for precinct supplies.  
Check to see that Registrar has received precinct supplies.
- JULY 22 Prepare agenda item for August 3 Council meeting - election results.
- JULY 23 Pickup and deliver booths, ballot boxes and precinct books to polling places and Inspectors' homes.
- JULY 27 ELECTION DAY.
- JULY 28 Return precinct books and equipment.  
Canvass vote.
- JULY 30 Prepare certificate of results.  
(If another election is necessary to fill vacancy in the event the recall prevails, it could be consolidated with the November 2 statewide election).
- SEPT 23 Mail campaign statement forms to candidate and committees.
- SEPT 30 Third campaign statements due (thru Sept. 23).



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