

November 4, 2022

VIA EMAIL

Zachary Beck, CMC, CPMC
City Clerk, City of Escondido
201 North Broadway
Escondido, CA 92025

**Re: *Joe Garcia and Joe Garcia for City Council 2022 (Committee No. 1375598)
Addendum to the Investigative Report***

Mr. Beck:

This addendum concerns information originally attributed to Witness 1 (Patti Thompson). Prior to completion of the primary investigative report, efforts to reach Ms. Thompson had been unsuccessful. On October 26, 2022, Ms. Thompson contacted the investigator and the City Clerk. She confirmed that she intended her initial contact to be a complaint and provided relevant documents and information. On that same day, the initial Complainant (Jeff Griffith) sought clarification on an issue discussed in the initial report which will also be addressed in this addendum.

Neither the information provided by Ms. Thompson nor the response to Jeff Griffith's request change the conclusions drawn in the initial investigative report.

Thompson Complaint

Ms. Thompson's complaint (Exhibit H), which includes seven images provided on October 26, 2022 (Exhibit I), is for all intents and purposes the same as that made by Jeff Griffith and raise no new legal issues beyond those analyzed in the initial investigative report. The images provided by Ms. Thompson are screen shots of Google search results and social media (Facebook and Twitter) posts that include images of Respondent pictured in his police uniform. As explained in detail below, all of these images with one exception have been removed.

With the exception of the second image ("Image 2") (Exhibit I, p. 2) the images provided by Complainant Patti Thompson contain a photo that is identical to one of those provided by Complainant Jeff Griffith. Image 2 appears to be a photo taken at a community event and was posted on Respondent's campaign Facebook page on May 16, 2016. There are two other individuals in the photo. The post itself includes no political advocacy. A review of Respondent's Facebook page on November 3, 2022, reveals that this photo is no longer among those posted on Respondent's candidate Facebook page for May 6, 2016. In addition,

pictures of Respondent in uniform no longer appear on his Candidate website – something which was noted in the initial investigative report.

The sixth image (“Image 6”) (Exhibit I, p. 6), is a Twitter post dated May 14, 2021, that includes both political advocacy and Respondent in his police uniform. This image still appears at the top of Respondent’s Twitter feed. Since it appeared that Respondent had made an effort to remove images of himself in uniform from his campaign Facebook and Twitter accounts as well as his campaign website, I reached out through counsel to ask about the May 14, 2021, Twitter post. Counsel confirmed that the campaign had removed or replaced images of Respondent in uniform on the campaign website and social media but that, in spite of their best efforts, they have been unable to remove this particular Twitter post. Counsel indicated that their social media expert believes they cannot remove it because they do not have control over the post itself.

Request for Clarification of Initial Investigative Report

Following the issuance of the initial investigative report, Complainant Jeff Griffith emailed to indicate that his issue with the use of public resources concerned the City issued police badge and not the photograph. (Exhibit J.) A focus in the badge rather than the photo does not change the determination. The statutory prohibition against the use of public resources for political purposes excludes “the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes” Gov. Code, § 8314. In enacting Government Code section 3206, the legislature provided specificity regarding political activity while in uniform. It is this investigator’s opinion and conclusion that the badge is a component of the uniform and not distinct from it. Although a police badge has special significance, it is as much a part of the uniform as, for example, the clothing and distinctive patches. To hold otherwise might suggest that an official need only remove this component of the uniform to avoid the prohibition against campaigning while in uniform.

Very truly yours,

DEVANEY PATE MORRIS & CAMERON, LLP



Christina M. Cameron
Partner

CMC/mcl
Enclosures