




City of East Palo Alto

Members of the Council
William Vines, *Mayor*
John Bostic, *Vice Mayor*
Warnell Coats
Pat Johnson
Barbara A. Mouton

Stanley H. Hall, *City Manager*
Lynda Rahi, *Deputy City Manager*

COPY

CONFIDENTIAL MEMO

DATE: August 27, 1990
TO: Robert K. Booth, Jr. - City Attorney
FROM: Stanley H. Hall, City Manager 
SUBJECT: RECALL ELECTION PROCEDURES

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I was greatly surprised and somewhat distressed regarding your memo to me dated August 24, 1990 involving recall election procedures.

Apparently, you have received false allegations against me in my capacity as City Clerk pertaining to my role in the recall process that is currently under way in the City of East Palo Alto. At no time did you call, question or investigate the allegation, but yet have sent me a memorandum, which I consider quite insulting, suggesting that either through ignorance of the law, stupidity or impropriety I have or would compromise the responsibility and the integrity of this office.

Let me assure you that this office has conducted itself in a professional and ethical manner, at all times including, the recall process now under way. Should there be a need to incorporate the services of you or any member of your office, contact will be made appropriately. To date, such a need has not arisen.

For the record my staff and I have followed to the letter, of the law the established procedures by the State of California, regarding recall Elections. I have extended to you in the past, and continue to invite you to review the process and documentation to satisfy any questions which may arise surrounding this subject. You have yet to avail yourself of this opportunity.

Regular staff meetings are held at City Offices on Tuesday at 10:00 a.m. To my knowledge there has been only one occasion when a member of your staff was in attendance. Mr. Steve Baird was that staff member. Neither you, or any other member has even attended any staff meeting. A number of subjects are covered including the impact; process; and procedures for managing the City's responsibility in this recall effort.

Finally, if I have problems in understanding and interpreting the intent of the law I will be sure to contact you.

In the future however, I would urge you to check with me before you assume that statements made to you are valid and are deserving of the billable time you have taken in this regard.

cc: Russell Averhart, Personnel Director
Lu Hicks, Deputy City Clerk
Dist. Attorney Jim Fox
Honorable Mayor and City Council Members

lh/recall

ATKINSON · FARASYN

ATTORNEYS AT LAW

660 WEST DANA STREET

P.O. BOX 279

MOUNTAIN VIEW, CALIFORNIA 94042

(415) 967-6941

J. M. ATKINSON (1892-1982)
L. M. FARASYN (1915-1979)

PAUL B. SMITH
LEONARD J. SIEGAL
HAROLD S. TOPPEL
ROBERT K. BOOTH, JR.
STEVEN G. BAIRD

FAX COVER SHEET

DATE: August 24, 1990

CONFIDENTIAL

TO: STANLEY H. HALL

EAST PALO ALTO CITY MANAGER

FAX #: _____

RE: RECALL ELECTION PROCEDURES

THIS TRANSMISSION IS FROM THE LAW FIRM OF:

ATKINSON-FARASYN
660 West Dana Street
Post Office Box 279
Mountain View, CA 94042
Telephone: (415)967-6941
FAX: (415)967-1395

IT CONSISTS OF THIS COVER SHEET AND 2 ADDITIONAL PAGES, AND IS DESCRIBED AS FOLLOWS:

REPLY, IF NECESSARY, TO: ROBERT K. BOOTH, JR.
(at above telephone or FAX numbers)

MESSAGE:

ATKINSON • FARASYNATTORNEYS AT LAW
660 WEST DANA STREET

P.O. BOX 279

MOUNTAIN VIEW, CALIFORNIA 94042

(415) 967-6944

J. M. ATKINSON (1892-1982)
L. M. FARASYN (1915-1979)PAUL B. SMITH
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HAROLD S. TOPPEL
ROBERT K. BOOTH, JR.
STEVEN G. BAIRD**CONFIDENTIAL****MEMORANDUM**

TO: STANLEY H. HALL
City Manager

FROM: Robert K. Booth, Jr.
City Attorney

DATE: August 24, 1990

RE: RECALL ELECTION PROCEDURES

As you know, when the subject of a possible recall against two members of the City Council surfaced approximately 60 days ago, we wrote a Memorandum to you in which we strongly recommended that you consult with this office any time events occurred in this process, because it is technical and complicated, and improprieties can prejudice the rights of the councilmembers, the proponents of the recall, or the public generally. To date we have not had any requests for advice from you whatsoever with respect to the conduct of this recall.

On Friday, August 24th, 1990, information was received that in your capacity as City Clerk, you were not only accepting petitions whenever someone brought them in, but also were engaging in a signature verification process. It has also been reported that nonresidents, persons who are not registered voters, and/or children may be circulating recall petitions.

Section 27212 of the Elections Code provides in pertinent part:

"All sections of the petition shall be filed at the same time...If, from the clerk's examination, the clerk determines that the number of signatures, prima facie, does not equal or exceed the minimum number of signatures required, the petition shall not be filed. Any petition not accepted for filing shall be returned to the proponents."

There can be no doubt that proponents of a recall get one opportunity to file all of their petitions at the same time and that your duties to examine the petition for signature sufficiency and other matters does not arise until that act occurs.

Any person offering to submit petitions on a piecemeal basis should be sent away. We strongly suggest that any such petitions received to date be retained in a separate file until a determination is made as to whether they should be returned to the proponents or whether they are invalid. Under no circumstances should any member of the City staff check signatures or otherwise provide assistance to the proponents of the recall.

You should be aware that violations by public officials of requirements of the Elections Code can be punished by fines up to \$5,000 or imprisonment in the state prison for up to three years or by both such fine and imprisonment, under some circumstances. In addition, failure to comply with the Elections Code could result in litigation against the City and possible invalidation of the recall.

We continue to urge you to check in advance with either Mr. Toppel or myself on each and every event of this recall.



Robert K. Booth, Jr.
City Attorney