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7 CRAIG K. POWELL, GREG HATFIELD and ERIK
8 SMITT, Appearing *In Propria Persona*

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SACRAMENTO**

12 CRAIG K. POWELL, an individual; GREG
13 HATFIELD, an individual; and ERIK SMITT,
an individual,

14 Petitioners,

15 v.

16 SHIRLEY CONCOLINO, as the City Clerk of
the CITY OF SACRAMENTO

17 Respondents.

18
19 CITY OF SACRAMENTO, a municipal
corporation; and JILL LAVINE, in her official
20 capacity as REGISTRAR OF VOTERS for the
COUNTY OF SACRAMENTO,

21 Real Parties In Interest.

Case No.

**DECLARATION OF DENNIS
NEUFELD IN SUPPORT OF
VERIFIED PETITION FOR WRIT OF
MANDATE**

Date:
Time:
Dept:
Judge:

Petition Filed: 08/16/12
[City of Sacramento Measure U]

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23
24 1. I, DENNIS NEUFELD, am a resident and registered voter in the City of
25 Sacramento. I make this declaration of my own personal knowledge and if called to testify as a
26 witness I could and would testify competently to the facts stated herein.

27 2 From local media accounts, I learned that the Sacramento City Council had, on
28 June 24, 2012, acted to place a sales tax hike measure on the November 6, 2012 general election

1 ballot. In response, I drafted a ballot argument against the proposal. On August 2, 2012, I sent a
2 draft of my opposition ballot argument to Ms. Annette Bigelow and Mr. J. Bolton Phillips via e-
3 mail, a copy of which is attached hereto as Exhibit Neufeld-1. In my e-mail I stated:

4 Annette and JBolton...Here's my 1st Draft of language against the .50% sales tax
5 increase, FYI Dennis

6
7 3. At the time I sent the above e-mail, I was unaware that the City Council on July
8 31, 2012 had assigned to Mayor Kevin Johnson the job of authoring an argument opposing the
9 sales tax measure and that he had accepted responsibility for doing so. To my knowledge, no
10 local media outlet made note of the Mayor's ballot argument assignment prior to August 3, 2012.

11 4. Early in the morning of August 3, 2012, I heard a radio broadcast on Sacramento
12 radio station KFBK. In the broadcast, I heard Mayor Johnson state that he would be writing a
13 ballot argument against the sales tax hike measure. At 9:57 a.m. that same morning, I sent the
14 following e-mail message to Assistant City Clerk Stephanie Mizuno:

15
16 Flash! I just heard earlier this morning (Fri) on KFBK that Mayor KJ wants to write
17 the "Against" argument for Measure U. Does this make submissions from others (groups
18 and individuals) out of luck? Or does his submission compete, via a lottery, with other
19 submissions? Or was he just thinking outloud? Since the City Council took charge of
20 both the For and Against arguments for Measure M [a measure to create a charter review
21 commission], I'm suspecting they may do the same for Measure U. Anything official
22 come to your office? Thanks! Dennis

23 5. At 11:34 a.m., Ms. Mizuno responded by sending me an e-mail that
24 stated:

25 On July 31st the council voted to authorize members to write both the pro/con
26 arguments for measure U. And the pro for measure T [measure concerning garden
27 refuse]. So those those [sic] arguments get selection priority.

28 6. I responded with an e-mail to Ms. Mizuno sent at 1:52 p.m. that day,
which reads, in relevant part, as follows:

Stephanie;

Hard to believe, of the 6 available "argument" slots for Measures M, T and U, that
the public's shot at democracy is reduced to 33%. For Measure U, one suspects the

1 Council, with the Mayor's collusion, wants to avoid a hard-hitting "Against"
2 message that would embarrass the Council's past decisions (eg garbage contracts, etc.),
3 thereby increasing odds of failure.

4 The above-quoted e-mail exchanges I had with Ms. Mizuno on August 3, 2012
5 are attached hereto as Exhibit Neufeld-2.

6 7. It turns out that my concern that the Mayor's argument against the sales tax hike
7 would "not be a hard-hitting 'Against" message" was very well-placed. A copy of the Mayor's
8 proposed ballot argument opposing Measure U (which was not submitted by the filing deadline)
9 is attached to Petitioner CRAIG K. POWELL's Declaration. No where in his argument does the
10 Mayor take note of wasteful and highly controversial city spending of which he approved, such as
11 the expenditure of over \$1 million of taxpayers funds on an aborted sports arena deal that
12 involved huge taxpayer subsidies and dodged a vote of the people, or fraudulent spending
13 involving his staff, like the \$9000 in personal expenses run up by a former mayoral aide on city-
14 issued credit cards, the subject of a current criminal investigation. Instead, his apparent principal
15 goal in writing the opposition ballot argument was to promote his plan for the "modernization" of
16 city government, which is widely acknowledged code for his own "Strong Mayor" initiative to
17 expand his own powers.
18

19 8. Following my e-mail exchange with Ms. Mizuno, I checked the video record of the
20 July 31st City Council meeting. (Final minutes of that meeting are unavailable, according to a
21 recent e-mail I received from Ms. Mizuno.) At the meeting, the following discussion occurred on
22 the subject of ballot arguments:
23

24 Mizuno: The report before you, if you choose to take action, will designate,
25 authorize authors to prepare ballot arguments either for and/or against those two
26 measures [T and U]. Although you are not required to take action, it will ensure that the
27 Council's arguments will be selected if more than one argument is received. If there are
28 any questions, I am here as well as the attorney's office.

Mayor Johnson: I am totally comfortable in being the author for the opposition
argument for the sales tax measure [Measure U].

1 Councilmember Rob Fong: Motion to have Darrell Fong, Kevin McCarty and Steve
2 Cohn serve as support authors for the two measures before us. The motion to also
3 include the Mayor as opposition author for the sales tax initiative. [Motion passes
4 unanimously.]

4 A video recording of the July 31st Council meeting can be viewed on the City Clerk's web page,
5 listed under meeting agenda item #25, at
6 http://sacramento.granicus.com/MediaPlayer.php?view_id=22&clip_id=3042,
7
8 with discussion beginning at 7:16 p.m. and concluding at 7:19 p.m. (starting at 1:13:07 and
9 ending at 1:15:23 on the meeting's running clock).

10 9. Once I became aware that the City Council had assigned, and the Mayor had
11 readily accepted, the responsibility for writing the ballot argument opposing Measure U and that
12 his argument, by law, would be selected for inclusion in the ballot argument ahead of anyone
13 else's opposition ballot argument, I ceased all efforts to submit an opposition ballot argument to
14 Measure U. It would have been a complete waste of my time to file such an argument only to
15 have it rejected. I never conceived for a moment that the Mayor of the City of Sacramento would
16 fail to discharge a simple responsibility that he had been formally assigned and that he had very
17 publicly committed to perform.
18

19 10. I believe that it is a totally corrupt practice for the City Council to usurp both the
20 "pro" and "con" arguments on any ballot measure it places on the ballot. It opens up myriad
21 opportunities for collusion, gamesmanship, soft-peddling arguments and now, evidently,
22 sandbagging the public into standing down from submitting honest ballot arguments that will
23 fully inform voters of the arguments. It would be a gross perversion of democracy to let the
24 actions and dereliction of duty of government officials deprive voters of their basic right to see
25 and consider the arguments for and against a City Council-proposed ballot measure.
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I declare under penalty of perjury that the foregoing is true and correct.

Executed in Sacramento, California on August 16, 2012.

DENNIS NEUFELD

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