

Heyward Robinson  
November 1, 2014

To: City of Menlo Park, San Mateo County District Attorney, California Fair Political Practices Commission, San Mateo County Grand Jury, and members of the Press  
From: Heyward Robinson  
RE: Potential illegal PR campaign by the City of Menlo Park against Measure M

Recently discovered emails from the City of Menlo Park indicate that the City most certainly hired an outside consultant to run a publicly funded, coordinated public relations campaign against Menlo Park's Measure M. The campaign appears to have been in operation since early March of 2014 and may have involved senior City staff members including the City Manager, members of the City Council, and members of the community who were identified as being "supportive". The details on the information discovered are outlined below. These revelations, if true, call into question the integrity, judgment, and candor of senior City Staff, including the City Manager, as well as the overall fairness of the campaign to defeat Measure M.

On August 29, 2014 I filed a public records request (PRA) with the City of Menlo Park requesting documents and communications related to the City produced information concerning Measure M. A copy of the request is here:  
<https://drive.google.com/file/d/0B4xKG89hNshCUVhwMGxIVGpPc1U/view?usp=sharing>

The City initially responded on September 23, 2014 with documents that were, for the most part, already in the public domain. There was nothing substantive in the response. Yesterday, October 31, 2014, I received a second DVD that contained additional emails that had not been previously known. Among them is a March 3, 2014 proposal from a PR consultant named Malcolm Smith for "Communications Services" related to the "potential ballot initiative to revise the approved Downtown Specific Plan" I've excerpted the proposal at the end of this message.

Discovery of this proposal raises a number of questions, including:

1. Was Mr. Smith actually hired by the City of Menlo Park? Subsequent email correspondence between Malcolm Smith and city staff seem to indicate that he was<sup>1</sup>; his contract should be a public record.

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<sup>1</sup> May 5, 2014, email from Cherise Brandell to Clay Curtin regarding the City's Initiative Web page: "Clay, Have you had a chance to send Malcolm a link to the test pages or did we determine that isn't possible? I think he's ready to move forward with getting the initiative web page set up in anticipation of signature being turned in"; May 19, 2014 email from Malcolm Smith to City staff regarding a response to an anonymous Almanac Town Square posting; May 21, 2014 email from Malcolm Smith discussing talking points for City Council.

Heyward Robinson  
November 1, 2014

2. If Mr. Smith was hired, what are terms of his contract? When was he hired? How long did he consult for the City? Is he still consulting? How much was he paid? Was he responding to a request for proposals or similar solicitation? Who was his point of contact at the City?
3. If Mr. Smith was hired, were the Mayor and other Council members aware that the City was using a consultant to create a PR campaign against Measure M? Did they in any way participate in the PR campaign against Measure M?
4. Which "supportive" community members were recruited by the City?
5. Did "supportive" community members review/edit/influence information on the City's website, newsletter or other official communications?
6. What information was provided to "supportive" community members for speaking at City Council meetings, writing letters to the editor, and posting on Nextdoor and other social media sites?
7. What letters to the editor and opinion pieces did Mr. Smith and/or City staff ghostwrite? Who submitted these for publication?
8. What interaction did Mr. Smith, City staff, or City Council members have with reporters and editorial boards at the Almanac, Daily News, Daily Post, San Jose Mercury News, and Menlo-Atherton Patch?
9. What meetings were held between staff/Council members/City consultants and local school leaders, including the school board, PTOs, and education foundation members? When were these meetings held and who attended them?
10. What postings on the Almanac's Town Square and Nextdoor were drafted/edited by Mr. Smith and/or City staff?
11. Did the City deliberately delay the release of these email records until the weekend before the November 4<sup>th</sup> election?
12. If the City did hire Mr. Smith and/or other consultants to run a PR campaign against Measure M, were any laws broken?
13. Mr. Smith's proposal of March 3, 2014 was well before the City Council meeting of March 18, 2014 where the Council authorized \$165,000 for a report on the Initiative's potential impacts. Had Council members and staff already made up their minds about Measure M prior to Council's March 18, 2014 action to request an Impact Study of the Initiative? Does the \$165,000 the City contracted with The Lisa Wise Consultants constitute a misuse of public funds?

The City of Menlo Park should provide answers to these questions as soon as possible. If the City has conducted a coordinated campaign against Measure M, the details and extent of the campaign need to be fully revealed. I have copied the San Mateo County District Attorney's office and the FPPC on this message as there may be California statutes and/or campaign finance laws that have been broken. I and other members of the public await a complete and thorough explanation from City staff and the Council.

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Summary of proposal from Malcolm Smith, March 3, 2014. The complete proposal can be found at

<https://drive.google.com/file/d/0B4xKG89hNshCWmpqWHlicEIyTVk/view?usp=sharing> This was part of a larger group of emails that were delivered as part of my

PRA:

<https://drive.google.com/file/d/0B4xKG89hNshCZ0ZIN193SUhrbUE/view?usp=sharing>

### **Proposal for Communications Services for the City of Menlo Park**

Focus: Potential ballot initiative to revise the approved Downtown Specific Plan

Prepared by Malcolm Smith, March 3, 2014

The City is faced with the likelihood of a November, 2014 ballot measure by initiative, which would revise the Downtown Specific Plan in a manner which the City believes would be detrimental to the Community and to the City's goals.

#### Objective of the Proposed work:

"Before the issue is officially placed on the ballot, the City seeks to refute the issues raised by the initiative's sponsors, and gain a more positive public profile of its position on the Plan by educating and informing the community about the importance of continuing with the existing Plan, respect for the extensive public process that led to the Plan and how the Plan helps set the stage for a healthy, economically-viable future for Menlo"

#### The Communications Tools/Tasks include:

producing talking points for Council and staff  
fostering supporters to speak at Council and Planning Commission meetings  
create news releases, letters to the editor, and opinion pieces  
cultivating personal contact to achieve positive (or factual/neutral) editorials and feature stories  
gain formal support positions from selected organizations  
creating an informational web page  
distributing information via Nextdoor and other social media

#### The detailed communication plan includes:

1. Develop key messages and talking points for Council, staff, and community members
2. Prepare 2-3 news releases for distribution at key milestones
3. Draft letters to the editor for local papers to be signed by supportive community members that the City would identify
4. Write 1 or 2 opinion pieces for local papers to be signed by the Mayor, Council Member, or high profile community member (City to identify)

Heyward Robinson  
November 1, 2014

5. Assist in preparation for editorial board meetings; one on one reporter meetings and chamber/school district presentations with selected City Council member/City manager
6. Create content for an informational/educational webpage regarding the possible ballot measure, making it a "transparent, credible, honest source of information"
7. Prepare content suitable for supportive community members to distribute via their own social media networks, through the City's nextdoor network, and other social media channels.

The proposals identify key "pro initiative" arguments that needed to be refuted:

- Additional traffic on El Camino and overflowing traffic into residential streets
- Offices "crowding out" housing and retail development
- Offices generating little tax revenue
- These developments worsen the "housing deficit"
- Loss of open space/definition of open space
- Increase in air and noise pollution

#### Timing

Assumed that sufficient signatures would be gathered to place the initiative on the ballot. Communication window was March to July; information was to be "metered out" to provide regular appearance of information from the City

#### Cost

\$6500 for 100 hours of work; 50 hour minimum