



**Minutes for Meeting of  
Thursday, November 9, 2006**

**Item-1: Call to Order**

Chairwoman Leonard called the meeting to order at 5:00 p.m.

**Item-2: Roll Call**

Present – Chairwoman Dorothy Leonard, Vice-Chair Gil Cabrera, Commissioners Charles H. Dick, Jr., Larry Westfall, Karen Thomas-Stefano and Lee Biddle

Staff – Executive Director Stacey Fulhorst, General Counsel Cristie C. McGuire, Program Manager Steve Ross, Senior Investigator Lauri Davis, and Executive Secretary Katherine Hunt

**Item-3: Approval of Commission Minutes**

**Approval of Ethics Commission Minutes of September 14, 2006**

Motion: Approve  
Moved/Seconded: Cabrera/Biddle  
Vote: Unanimous  
Abstained: Dick/Stefano

**Approval of Ethics Commission Minutes of October 12, 2006**

Motion: Approve  
Moved/Seconded: Biddle/Stefano  
Vote: Unanimous  
Abstained: Westfall/Dick

**Item-4: Non-Agenda Public Comment**

Melvin Shapiro commented regarding various Ethics Commission investigative files that were dismissed.

**Item-5: Commissioner Comment**

None

**Item-6: Executive Director Comment**

Director Fulhorst reported that Francisco Murillo, the new Ethics Commission Auditor, will be starting on November 27. She also reported that applications are currently being accepted for the new investigator position. She advised that recruitment for the training officer will begin once the hiring process for the investigator is finalized. She thanked Chairwoman Leonard and Commissioner Westfall for their assistance with applicant interviews for the Auditor position.

**Item-7 General Counsel Comment**

None

**Item-8 Proposed Amendments to Municipal Lobbying Ordinance**

Director Fulhorst presented the staff's proposals for changes made in response to issues raised at the Rules Committee meeting on October 25, 2006 as outlined in the staff report.

Melvin Shapiro commented on quarterly reports filed by lobbyists and the proposed scope of contacts.

Director Fulhorst explained that the Commission's proposed changes would require registration forms to be updated within 10 days, and that this change should address Mr. Shapiro's concerns regarding timely disclosure of lobbying activities.

Chairwoman Leonard advised that, in response to the direction of the Rules Committee, the matter of ex parte communications will be included on the Commission's 2007 legislative calendar.

Kevin Heneghan commented with regard to the following proposed changes:

Reporting of City Official Contacts: he reiterated his previous suggestion that lobbyists disclose the office/department contacted, instead of the individual City Official.

Reporting of Campaign Consultants: he disputed the staff report regarding the direction received from the Rules Committee to include this disclosure requirement.

Changes to Fundraising Activity Language: he reiterated his previous suggestion that lobbyists only be required to disclose contributions that are bundled and delivered to a candidate. He added that, in his experience, it is not a common practice to code remittance envelopes.

Disclosure Forms: he expressed his view that it would be very difficult for lobbyists to break down compensation received by each municipal decision influenced.

Director Fulhorst clarified that with regard to contacts, the only information required to be disclosed was the identity of the official contacted regardless of the number of contacts made. She also reiterated that the majority of the Rules Committee expressly directed the Commission to include the requirement regarding disclosure of campaign consulting services.

Chairwoman Leonard and Commissioner Cabrera agreed that it was also their understanding that the Rules Committee asked the Commission to include the disclosure of campaign consulting services.

Commissioner Cabrera suggested that the quarterly disclosure report correspond with the registration form with regard to disclosure of municipal decisions and amount of compensation received.

Simon Mayesk commented with regard to a letter distributed to the Commission.

Chairwoman Leonard indicated that the proposed changes would be returned to the Rules Committee sometime in February and docketed for the City Council for a first reading of the ordinance in March or April of 2007.

The Commission considered the following staff recommendations:

Item 1 - Disclosure of City Officials on Quarterly Report

In response to the Rules Committee's discussion, staff proposed limiting the definition of City Official to a specific list of high-level City Officials.

Director Fulhorst pointed out that the number of City Officials that would need to be reported by lobbyists would be greatly narrowed under the new proposed language. She added that if approved, the listing of designated titles would be distributed to the regulated community to serve as a guide for reporting requirements.

Commissioner Cabrera suggested deleting the category of candidate from the listing. He also commented regarding possible positions on the Mayor's staff.

In response to Commissioner Cabrera, Director Fulhorst advised that the job titles of chief, deputy chief and assistant deputy chief would include the core of the Mayor's staff.

There was discussion regarding the position of Council Committee Consultant and the consensus of the Commission was to include this position within the definition of City Official.

Motion: Approve Draft Language for Revised Definition of City Official as amended to delete "candidate" and add "Committee Consultant."

Moved/Seconded: Cabrera/Biddle

Vote: Unanimous

### Item 2 - Disclosure of Past Four Years of Fundraising Activity on Registration Form

The members of the Rules Committee expressed their concern that the proposed requirement that lobbyists report fundraising activities for a four year period might be too burdensome. In response, staff provided three recommendations: the first would establish a "grandfather" exemption that would in effect provide notice that the disclosure of fundraising activity would be required four years after the ordinance went into effect; the second proposal would reduce the disclosure period from four years to one; and the third proposal would increase the amount of information to be disclosed if the disclosure period was reduced.

Commissioner Cabrera suggested a two year reporting period with a grandfather clause back to January 1, 2007.

Motion: To Approve Reducing the Disclosure Period to Two years effective January 1, 2007

Moved/Seconded: Cabrera/Stefano

Vote: Unanimous

### Item 3 - Disclosure of Campaign Consultants

The Rules Committee directed the Commission to include the disclosure of campaign consulting services by lobbyists. Staff recommended that this disclosure requirement apply to lobbying firms, and not organization lobbyists, and that the disclosure apply to work performed for both candidate and ballot measure committees. Finally, the staff recommended disclosure on the registration forms and quarterly reports, similar to the disclosure of campaign fundraising activities.

Director Fulhorst recommended that it be modeled after the fundraising reporting with a two year limit and reported on the annual registration forms and quarterly reports.

Motion: Approve Staff Recommendation

Moved/Seconded: Cabrera/Biddle

Vote: Unanimous

#### Item 4 - Changes to Fundraising Activity Language

In response to the issues raised at the Rules Committee hearing, staff proposed using the same language as is used for the definition for fundraising in the disclosure provision. This would require disclosure of any contributions personally delivered or identified by a lobbyist as having responsibility for raising.

Director Fulhorst commented on the disclosure practices of other jurisdictions. She advised against removing the language that requires disclosure of contributions that a fundraiser has taken credit for. She pointed out that the form would only require a general description and a total amount, and not an itemization of each contribution as is required in other jurisdictions.

Commissioner Cabrera added that the purpose of the proposed language for this section was to have it conform with the definition of fundraising.

Motion: Approve Staff Recommendation

Moved/Seconded: Cabrera/Biddle

Vote: Unanimous

#### Item 5 - Scope of Contact

The Commission had previously proposed a contacts threshold that would require registration by organization lobbyists who made a total of ten or more lobbying contacts within sixty calendar days. There was confusion at the October Rules Committee meeting among the committee members as a result of a recommendation by Carl DeMaio that City Officials disclose all of their ex parte contacts. The Committee members mistakenly believed that the contacts threshold for organization lobbyists would apply to them for any contacts that could qualify as ex parte communications. The Rules Committee therefore suggested that the Commission attempt to simplify the scope of a "contact." Staff pointed out that the Commission already spent a great deal of time in an effort to keep this definition as simple as possible. The Commissioners expressed their agreement with staff and indicated that no revisions to the draft ordinance were necessary.

#### Item 6 - Scope of Reportable Compensation

Staff proposed a new definition of "lobbying activity" along with language that would clarify that lobbyists must disclose compensation received for all lobbying activities. In addition, language was added to clarify that, in order to qualify as a lobbying firm, there must be at least one direct communication with a city official.

Motion: Approve staff recommendation

Moved/Seconded: Cabrera/Stefano

Vote: Unanimous

Item 7 - \$5000 Threshold for Expenditure Lobbyists

The staff proposed revised language that would apply the \$5,000 threshold to any number of municipal decisions, that would establish a quarterly threshold rather than a 90-day threshold, and would add language clarifying when an expenditure is made.

Motion: Approve Staff Recommendation

Moved/Seconded: Biddle/Cabrera

Vote: Unanimous

Item 8 - Effective Date of Ordinance

Staff proposed having the ordinance go into effect on January 1, 2008, to prevent any potential hardship or confusion for the regulated community and the City Clerk's Office. The 2008 date will allow time for staff to prepare educational materials and conduct training seminars before the new rules go into effect.

Commissioner Dick commended the staff on the preparation of the draft ordinance. He expressed concern that any proposed changes shouldn't prevent people from being involved in the governmental process.

Motion: Approve Staff Recommendation

Moved/Seconded: Stefano/Biddle

Vote: Unanimous

Director Fulhorst advised that the staff prepared draft registration and disclosure forms for the Commission's review.

She added that, with the Commission's approval, staff will add an "s" to municipal decision in section 27.4017(2)(d) and strike the word "specific" in order to allow reporting of multiple decisions on the quarterly disclosure forms.

The decision was made by the Commission to review the forms and discuss them at the next meeting.

Director Fulhorst advised that there will be an opportunity for the Commission and staff to receive input from the public as well as the City Clerk's Office.

**Item-9: Adjournment to Closed Session**

Chairwoman Leonard adjourned the meeting to Closed Session at approximately 6:37 p.m. She stated the Commission would reconvene into Open Session following the conclusion of Closed Session in order to report any action taken during the closed session portion of the meeting.

## **Reconvene to Open Session**

Chairwoman Leonard called the meeting back into open session at approximately 6:55 p.m.

## **Reporting Results of Closed Session Meeting of November 9, 2006**

Chairwoman Leonard reported the results of the Closed Session Meeting of November 9, 2006

### **Item 1: Conference with Legal Counsel (2 potential matters)**

#### **Case No. 2006-69 – In Re: Alleged Failure to File Statement of Economic Interests**

Motion: Initiate Investigation

Moved/Seconded:

Vote: Unanimous

#### **Case No. 2006-70 – In Re: Alleged Failure to File Campaign Statements**

Motion: Initiate Investigation

Moved/Seconded:

Vote: Unanimous

### **Item 2: Conference with Legal Counsel (15 potential matters)**

One matter withdrawn

#### **Case No. 2006-08 – In Re: Alleged Contributions in Excess of Limit and Contributions from Organization**

Motion: Dismiss

Moved/Seconded:

Vote: Unanimous

#### **Case No. 2006-28 – In Re: Alleged Failure to File Statement of Economic Interests**

Motion: Dismiss

Moved/Seconded

Vote: Unanimous

**Case No. 2006-57 – In Re: Alleged Failure to Properly Disclose Electioneering Communications**

Motion: Dismiss  
Moved/Seconded:  
Vote: Unanimous

**Case No. 2006-61 – In Re: Alleged Retaliation for Reporting Illegal Activity**

No Reportable Action Taken

**Case No. 2006-23 – In Re: Arturo Castro – Alleged Failure to File Statement of Economic Interests**

Motion: Approve Stipulation  
Moved/Seconded  
Vote: Unanimous

**Case No. 2006-24 – In Re: Gregory DePena – Alleged Failure to File Statement of Economic Interests**

Motion: Approve Stipulation  
Moved/Seconded  
Vote: Unanimous

**Case No. 2006-25 – In Re: Michael Witkin – Alleged Failure to File Statement of Economic Interests**

Motion: Approve Stipulation  
Moved/Seconded  
Vote: Unanimous

**Case No. 2006-27 – In Re: James Smith – Alleged Failure to File Statement of Economic Interests**

Motion: Approve Stipulation  
Moved/Seconded  
Vote: Unanimous

**Case No. 2006-33 – In Re: Richard Stegner – Alleged Failure to File Statement of Economic Interests**

Motion: Approve Stipulation  
Moved/Seconded  
Vote: Unanimous



**Case No. 2006-34 – In Re: Paul W. Johnson– Alleged Failure to File Statement of Economic Interests**

Motion: Approve Stipulation  
Moved/Seconded  
Vote: Unanimous

**Case No. 2006-36 – In Re: Mary Zoeller – Alleged Failure to File Statement of Economic Interests**

Motion: Approve Stipulation  
Moved/Seconded  
Vote: Unanimous

**Case No. 2006-39 – In Re: Judith St. Leger – Alleged Failure to File Statement of Economic Interests**

Motion: Approve Stipulation  
Moved/Seconded  
Vote: Unanimous

**Case No. 2006-49 – In Re: Amy Gonyeau – Alleged Failure to File Statement of Economic Interests**

Motion: Approve Stipulation  
Moved/Seconded  
Vote: Unanimous

**Case No. 2006-52 – In Re: Michael Mueller – Alleged Failure to File Statement of Economic Interests**

Motion: Approve Stipulation  
Moved/Seconded  
Vote: Unanimous

**Adjournment**

The meeting adjourned at approximately 7:00 p.m.

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Dorothy Leonard, Chairwoman  
Ethics Commission

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Kathy Hunt, Executive Secretary  
Ethics Commission

***THIS INFORMATION WILL BE MADE AVAILABLE IN ALTERNATIVE FORMATS UPON REQUEST.***