



**Minutes for Meeting of
Thursday, September 13, 2007**

Item-1: Call to Order

Chairman Cabrera called the meeting to order at 5:05 p.m.

Item-2: Roll Call

Present – Chairman Guillermo Cabrera, Vice-Chair Lee Biddle, Commissioners Clyde Fuller, Krishna Haney, Dorothy Leonard, Richard Valdez and Larry Westfall

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

Item-3: Random Drawing for Audit of 2005-2006 Election Cycle

Director Fulhorst reported on the audit selection procedures as laid out by the Ethics Commission's Audit Manual. She explained that the candidate and ballot measure committees are placed in pools based on financial activity.

Director Fulhorst advised that one of the audit pools included deceased candidate Charles Lewis for City Council 2006, and proposed that the Commission vote to delete him from the pool.

Motion: Exclude Charles Lewis from audit pool
Moved/Seconded: Haney/Westfall
Vote: Carried Unanimously

Director Fulhorst introduced Denise Jenkins, the Elections Analyst with the City Clerk's Office. She explained that the City Clerk's Office is responsible for compiling the names of committees in the various pools and conducting the random drawing.

Ms. Jenkins conducted the random audit drawing for the 2005-2006 election cycle. The following committees were selected for audit:

Candidate Controlled Committees:

FINANCIAL ACTIVITY BETWEEN \$10,000 AND \$49,000:

Remy Bermudez for City Council
Pat Zaharopoulous for City Council
Ian Trowbridge for City Council
Remy Bermudez for City Council '06

FINANCIAL ACTIVITY BETWEEN \$50,000 AND \$99,999:

Rich Grosch for City Council
Tony Young for City Council 2006
(Luis) Acle for City Council

FINANCIAL ACTIVITY BETWEEN \$100,000 OR MORE:

Jerry Sanders for Mayor
Committee to Re-Elect Ben Hueso
Lorena Gonzalez for City Council
Votepickard.com (Lincoln Pickard)
Ralph Inzunza for City Council
Donna Frye for Mayor 2005
Friends of Ben Hueso
Friends of Kevin Faulconer
Friends of Michael Zucchet 2006
Richard Rider for Mayor
Mike Shelby

Ballot Measure Committees:

FINANCIAL ACTIVITY BETWEEN \$10,000 and \$49,000:

Citizens Against Corruption: No on C
(November 7, 2006 Election)

FINANCIAL ACTIVITY BETWEEN \$100,000 OR MORE:

San Diegans for City Hall Reform (in support
Of Prop B & C, November 7, 2006 Election)

San Diegans for Mt. Soledad National War Memorial (Support for
Prop A, July 26, 2005 Election)

Director Fulhorst explained that an audit of a candidate committee includes the auditing of all committees that a candidate has open during the same audit period. She also mentioned that the audits for the 2004 election cycle were almost complete.

Item-4: Approval of Commission Minutes

Approval of Ethics Commission Minutes of August 9, 2007

Motion: Approve
Moved/Seconded: Leonard/Haney
Vote: Carried Unanimously

Item-5: Non-Agenda Public Comment

None

Item-6: Commissioner Comment

Chairman Cabrera commented that this was the last meeting that Cristie McGuire would serve as General Counsel and thanked her for her outstanding service to the Commission.

Commissioner Leonard also thanked Ms. McGuire for her service as the Commission's first legal counsel.

Item-7: Executive Director Comment

Director Fulhorst commented on Ms. McGuire's service with the City, thanked her for serving as the Commission's General Counsel, and presented her with an appreciation plaque.

Director Fulhorst reported on the following matters:

Proposed State Legislation

Assembly Bill 1441 passed unanimously in the State Senate and will proceed to the Governor's office. This bill concerns a change in the law that will allow a candidate to maintain a separate committee for legal defense funds.

Assembly Bill 1430 passed in the State Senate by a 27-9 vote. This bill aims to prevent local jurisdictions from imposing any limitations on member communications.

California Political Attorneys' Association Conference

Director Fulhorst reported that she served as a panel member at the conference in San Francisco on September 9. She commented that she received positive feedback from conference participants on the San Diego Ethics Commission staff.

COGEL Conference

Director Fulhorst reported she will be attending the 2008 COGEL conference in Victoria, Canada.

Item-8: General Counsel Comment

Ms. McGuire commented on her years of service as the Commission's first legal counsel.

Item-9: Potential Expansion of Ethics Commission's Jurisdiction

Director Fulhorst reported on Councilmember Madaffer's proposal to expand the Ethics Commission's jurisdiction to include classified employees who file Statements of Economic Interests (SEI's). She advised that the Commission needed to report back to Councilmember Madaffer after discussion of the various issues involved. The following issues were discussed:

Education and Enforcement

Director Fulhorst related the staff recommendation that the jurisdiction of classified employees who file SEIs should include both education and enforcement.

Commissioner Leonard recommended expanding the Commission's jurisdiction to include classified employees who file SEIs.

Director Fulhorst advised that Labor Relations Manager Scott Chadwick and others in the Mayor's Office advised Commission staff that the application of post-employment restrictions on classified staff would be problematic in light of prior negotiations surrounding Proposition C. Accordingly, the staff recommended excluding the post-employment provisions with respect to classified employees who file SEIs.

She added that it was also the staff's recommendation that the various Civil Service procedures and/or remedies available to classified staff should not apply to Ethics Commission investigations and enforcement actions.

Commissioner Valdez questioned whether civil service remedies could be excluded with respect to Ethics Commission activities.

Ms. McGuire advised that it was possible to exclude these remedies if the parties involved in the meet in confer process agreed to the recommended conditions.

Chairman Cabrera recommended supporting Councilmember Madaffer's proposal on the condition that the Commission's jurisdiction include both education and enforcement with respect to classified employees who file SEIs.

Staffing Considerations

In response to concerns regarding the impact on staffing, Director Fulhorst noted that the current part-time General Counsel position will become full time, and that staff will be recruiting for the trainer and junior investigator positions within the next six months.

Commissioner Westfall expressed concerns regarding possible difficulties with recruiting employees. He mentioned the potential for increased informal requests for advice.

Chairman Cabrera indicated that the consensus of the Commission was to support Councilmember Madaffer's proposal provided the staff recommendations were incorporated.

Director Fulhorst indicated that she would prepare a memo to Councilmember Madaffer reflecting the Commission's recommendations with regard to the proposal to expand the Commission's jurisdiction to include classified employees who file SEIs.

Item-10: Ex-Parte Communications

Director Fulhorst reported that this matter arose during the consideration of proposed amendments to the Lobbying Ordinance. She explained that a policy or ordinance regulating ex-parte communications would involve the disclosure by public officials of contacts with individuals concerning municipal decisions. She added that, although the Commission concluded it was not appropriate to include the issue of ex-parte communications within the Lobbying Ordinance, the Commission believed it warranted further consideration and forwarded the matter to the City Council Rules Committee. The Rules Committee returned the item to the Ethics Commission and asked the Commission consider drafting a policy or ordinance to address this issue.

Director Fulhorst reported on several key legal questions that the Commission would need to address before moving forward with a policy or ordinance. She pointed out that Councilmembers and staff have indicated that they are not certain what types of decisions constitute "quasi judicial" matters, and whether ex-parte communications concerning quasi-judicial matters are prohibited. She recommended that the Commission obtain an opinion from the City Attorney's Office on the related legal issues before the Commission proceeds any further with the matter.

Chairman Cabrera indicated that the Commission supported the staff recommendation regarding obtaining guidance from the City Attorney's Office.

Item-11: Amendment to Election Campaign Control Ordinance

Director Fulhorst reported on a proposed change that would require City candidates to disclose the cumulative amount of contributions received per election from individual contributors in a separate column on campaign disclosure statements. She explained that state law requires this information from state candidates, and that local candidates have historically provided the information although it is not currently required under the City's laws. She pointed out that the information is crucial in terms of ensuring the public that City candidates are complying with the City's contribution limits. She indicated that, because the proposed change is very minor, the Council President will likely place it on the Council's consent agenda.

Motion: Approve Staff Recommendation
Moved/Seconded: Valdez/Fuller
Vote: Carried Unanimously

Item-12: Adjournment to Closed Session

Chairman Cabrera adjourned the meeting to Closed Session at approximately 6:05 p.m. He 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

Chairman Cabrera called the meeting back into open session at approximately 6:45 p.m.

Reporting Results of Closed Session Meeting of September 13, 2007

Chairman Cabrera reported the results of the Closed Session Meeting of September 13, 2007

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

Case No. 2007-85 – In Re: Alleged Violation regarding Loan to Campaign Committee in Excess of Limit

Motion: Initiate Investigation
Vote: Carried Unanimously

Case No. 2007-89 – In Re: Alleged Violation regarding Accepting Gift in Excess of Limit

Motion: Initiate Investigation

Vote: Carried Unanimously

Item 2: Conference with Legal Counsel (4 potential matters)

Case No. 2006-73 – In Re: Alleged Failure to Register as a Lobbyist

No Reportable Action

Case No. 2007-38 – In Re: Ron Roberts - Alleged Violation of Checking Account Rules

Motion: Approve Stipulation

Vote: Carried Unanimously

Case No. 2007-05 – In Re: Alleged Failure to File Lobbyists Quarterly Disclosure Statement

Motion: Recuse Commissioner Westfall

Vote: Carried Unanimously

Abstained: Westfall

Motion: Dismiss

Vote: Carried Unanimously

Recused: Westfall

Case No. 2007-42 - In Re: Alleged Failure to File Statement of Economic Interests

Motion: Dismiss

Vote: Carried Unanimously

Item 3: Conference with Legal Counsel (2 Potential Matters)

One Item withdrawn.

San Diego Ethics Commission Final Audit Report: San Diegans for Ron Roberts

Motion: Accept Report

Vote: Carried Unanimously

Adjournment

The meeting adjourned at approximately 6:50 p.m.

Guillermo Cabrera, Commission Chair
Ethics Commission

Kathy Hunt, Executive Secretary
Ethics Commission

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