



**Minutes for Meeting of
Thursday, August 14, 2008**

Item-1: Call to Order

Chairman Cabrera called the meeting to order at 5:00 p.m.

Item-2: Roll Call

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

Staff – Executive Director Stacey Fulhorst, General Counsel Alison Adema, Program Manager Steve Ross, Senior Investigator Lauri Davis, Investigator Kacy Green, and Executive Secretary Katherine Hunt

Item-3: Approval of Commission Minutes

Approval of Ethics Commission Minutes of July 10 and July 11, 2008

Motion: Approve

Moved/Seconded: Haney/Fuller

Vote: Carried Unanimously

Item-4: Non-Agenda Public Comment

None

Item-5: Commissioner Comment

None

Item-6: Executive Director Comment

Director Fulhorst commented that August 20 will be the 25th anniversary for Ethics Commission Executive Secretary Kathy Hunt as a City employee and thanked her for her service to the Commission.

Item-7: General Counsel Comment

None

Item-8: Proposed Amendments to Municipal Lobbying Ordinance

Melvin Shapiro commented on the purpose of the ordinance and the timing of reporting lobbying contacts. He reiterated his view that lobbying contacts should be disclosed at or before City Council hearings.

Chairman Cabrera responded that with respect to the matter addressed by Mr. Shapiro, the Ethics Commission has requested and is waiting on an opinion from the City Attorney's Office. He advised that the Commission's legislative agenda for the next calendar year may include this issue.

Director Fulhorst presented the staff recommendations to be considered by the Commission:

Issue One: "Lobbying" versus "Lobbying Activities"

The staff proposed replacing the term "Lobbying Activities" with the term "Lobbying" in response to unintended consequences of the use of the lobbying activity term. She commented that staff needs to confirm that the intent of the Commission was to only require Lobbying Firms and Organization Lobbyists to report those individuals who were involved in direct lobbying. She advised that this change would eliminate firms having to list individuals who were only involved in research or monitoring a decision.

Chairman Cabrera confirmed that the staff's proposed changes corresponded with the Commission's original intent.

Issue Two: Definition of "Lobbyists"

The proposed change would more narrowly define the term "Lobbyist" to eliminate volunteer members (non-officers) of an organization as well as "rank and file" employees who assist in lobbying efforts without actually lobbying.

The Commission concurred with the proposed change.

Issue Three: Disclosure Requirements for Quarter with No Lobbying

The staff recommendations included several options designed to clarify the reporting requirements when a lobbying firm does not engage in lobbying on behalf of a client during the quarterly reporting period. Staff supports Option A, which would add a box to the quarterly reporting form to indicate whether or not lobbying occurred on behalf of a client during the quarter

The Commission concurred with the staff recommendation.

Issue Four: Campaign Activities of Uncompensated Officers Who Lobby:

The changes proposed by staff address issues resulting from the current law that requires unpaid officers to disclose campaign activities if they have engaged in lobbying for the organization.

Several proposals were offered as ways to address the Commission's desire to not include most unpaid volunteers within the ordinance's reporting requirements.

Commissioner Haney supported Option B which would keep the current disclosure requirement and add language clarifying that certain unpaid officers who lobby are required to disclose their campaign activities.

Chairman Cabrera indicated that the Commission supported Option B of the staff recommendations.

Issue Five: Definition of "Officer"

The staff recommendation would add a definition of "officer" to the ordinance and also included an organization's board of directors within the definition.

Commissioner Leonard pointed out that including an organization's board of directors within the definition of "officer" could cause confusion.

Commissioner Valdez expressed his view that applying the ordinance to all board members was overbroad.

The consensus of the Commission was to not define "officer", but instead to limit the ordinance's application to compensated officers and an organization's chairperson.

Issue Six: Contact Needed Before Registration Requirement

The staff recommendation would clarify that Lobbying Firms only need to register a client for whom they have had at least one lobbying contact.

The Commission concurred with the recommendation.

Issue Seven: Amending Organization Lobbyist's Registration Form

The staff recommendation would require Organization Lobbyists to amend their registration forms to disclose any new municipal decision they are working on within ten days of any lobbying on that decision.

The Commission concurred with the recommendation.

Issue Eight: Number of Contacts

The staff's recommendation would leave the ordinance unchanged with respect to requiring Organization Lobbyists to track contacts.

Issue Nine: Amount of Compensation

The staff recommendation would leave the ordinance unchanged with regard to Lobbying Firms reporting compensation.

The Commission agreed to leave the ordinance unchanged for reporting requirements for Organization Lobbyists and Lobbying Firms.

Issue Ten: Communications with Lower Level City Employees

The proposed change would add communications with lower level employees to the term "Lobbying Activities," such that these contacts would be included for the purpose of Lobbying Firms' calculating total compensation.

The Commission concurred with the recommendation.

Issue Eleven: Contributions by Firm or Organization

The staff recommendation would amend the ordinance to require Lobbying Firms and Organizations to report campaign contributions made to candidate-controlled ballot measure committees.

The Commission agreed with the proposal.

Issue Twelve: Separate Fundraising Activity

The staff recommendation would clarify that disclosure is required for lobbyists who have one or more fundraising efforts that collectively reach the \$1,000 threshold.

The Commission indicated that they supported the change.

Issue Thirteen: Campaign Workers Paid on Contingency Basis

The proposed change would require disclosure by Lobbying Firms and Organization Lobbyists for lobbyists who are paid to work on a campaign on a contingency basis.

The Commission supported the proposed change.

Chairman Cabrera indicated that staff will return at the September meeting with a draft ordinance incorporating the proposed changes.

Item-9: Proposed Amendments to Election Campaign Control Ordinance

Legal Defense Funds

Director Fulhorst presented draft changes to the legal defense fund provisions. She noted the changes include the new definition of Legal Defense Committee. She advised that although the current legal defense fund limit is an annual limit, staff included an option for a per action limit. The proposed amendments would tie limits for both options to the campaign contribution dollar limit amount.

Motion: Approve changes to include option A to retain an annual limit for legal defense funds

Moved/Seconded: Leonard/Haney

Vote: Carried Unanimously

Public Financing

Director Fulhorst reported that a public finance workshop is scheduled for the October 8 Rules Committee meeting.

Commissioner Biddle presented a report for the Public Financing Subcommittee that included the issues the Subcommittee considered as well as recommendations for the full Commission to consider:

- The type of public financing to adopt: whether to have matching funds or a full public financing system. The Committee arrived at the conclusion that the best system to use would be pure public financing where the candidates only use public funds.
- Method by which a candidate would qualify for public financing. The subcommittee recommended adopting the proposal presented by Common Cause which would require a City Council candidate to collect \$5.00 from 500 individuals in order to qualify.
- Funding source. The subcommittee identified revenue from a surcharge on parking tickets as the best source for funding the proposal. The

subcommittee recommended initially limiting the public financing program to only City Council races in order to limit costs.

Chairman Cabrera commented that public financing could eventually be adopted for citywide races if it proves to work successfully for City Council races.

The Commission discussed the proposed qualifying threshold and whether it was viable for candidates to collect 500 contributions of \$5.00 each.

Chairman Cabrera commented that the Commission needs to decide if it conceptually supports a public financing proposal to take to the Rules Committee that would include full public financing for Council candidates, a qualifying threshold that involves a certain number of signatures and a small monetary contribution, and a proposed amount of public funds that would be available for candidates. The funding mechanism would include a 10% surcharge on parking tickets. He indicated that three Commissioners supported the proposal.

Although Commissioner Westfall indicated that he did not support public financing of campaigns, he asked how a competitive race can be defined in light of past city election results.

Chairman Cabrera responded that he would define a competitive race as one in which a number of candidates have the financial resources and the ability to communicate their campaign's message to the public.

Commissioner Haney commented that she supported the proposal but was interested in receiving additional information regarding the proposed qualifying threshold.

Simon Mayeski commented on public financing and offered to research contributor threshold numbers from agencies that have existing public financing programs.

Chairman Cabrera reiterated that the issue to be considered by the Commission is whether to support the concept of a conservative threshold number that is based on gathering signatures, coupled with a small monetary contribution. He noted that although the subcommittee members expressed concern that the proposed threshold number may be too high, they believed it would be beneficial for staff to do an analysis later in the process.

Commissioner Leonard expressed her view that it was a good idea to present general concepts to the Rules Committee in order to get feedback from the Committee before spending more time on the proposal.

Chairman Cabrera indicated that the proposal will be docketed for further discussion at the September Commission meeting.

Item-10: Adjournment to Closed Session

Chairman Cabrera adjourned the meeting to Closed Session at approximately 6:10 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 6:50 p.m.

Reporting Results of Closed Session Meeting of August 14, 2008

Chairman Cabrera reported the results of the Closed Session Meeting of August 14, 2008

Item-1: Conference with Legal Counsel (10 potential matters)

Cases 2008-47 thru 2008-53 – In Re: Alleged Failure to File Statement of Economic Interests

Motion: Initiate Investigation
Vote: Carried Unanimously

Case No. 2008-54 – In Re: Alleged Failure to Disclose Economic Interests and Alleged Participation in Municipal Decision Affecting Economic Interests

Motion: Initiate Investigation
Vote: Carried Unanimously

Case No. 2008-55 – In Re: Alleged Misuse of Position by City Official

Motion: Initiate Investigation
Vote: Carried Unanimously

Case No. 2008-56 – In Re: Alleged Participation in Municipal Decision Affecting Economic Interests and Alleged Financial Interest in Contract

Motion: Initiate Investigation
Vote: Carried Unanimously

Item-2: Conference with Legal Counsel (12 potential matters)

Cases 2005-90, 2006-01 thru 2006-05 – In Re: Alleged Failure to File Statements of Economic Interests

Motion: Dismiss
Vote: Carried Unanimously

Case No. 2005-98 – In Re: Alleged Failure to File Statement of Economic Interests

Motion: Dismiss
Vote: Carried Unanimously
Recused: Cabrera

Case No. 2008-10 – In Re: Carl De Maio – Alleged Unlawful Solicitation of Campaign Contributions from City Employees

Motion: Approve Stipulation
Vote: Carried Unanimously

Case No. 2008-15 – In Re: Alleged Failure to include “Paid for by” Disclosure on Campaign Literature

Motion: Dismiss
Vote: Carried Unanimously

Case No. 2008-17 – In Re: Alleged Failure to include Identification Disclosure on Telephone Communications

No reportable action

Case No. 2008-22 – In Re: Richard Geisler - Alleged Unlawful Solicitation of Campaign Contribution from City Employee

Motion: Approve Stipulation
Vote: Carried Unanimously
Recused: Haney

Case No. 2008-23 – In Re: Alleged Failure to Properly Disclose Municipal Decisions in Quarterly Lobbying Report

Motion: Dismiss
Vote: Carried Unanimously

Item-3: Conference with Legal Counsel (1 potential matter)

Case No. 2007-93 – In Re: Michael Aguirre – Alleged Unlawful Solicitation of Campaign Contributions from City Employees

No Reportable Action

Adjournment

The meeting adjourned at approximately 6:55 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.