



**Minutes for Meeting of  
Thursday, February 10, 2011**

**Item-1: Call to Order**

Commission Chair Westfall called the meeting to order at 5:00 p.m.

**Item-2: Roll Call**

Present – Commission Chair Larry Westfall, Vice-Chair Lee Biddle, Commissioners Faye Detsky-Weil, Clyde Fuller, William Howatt, John O'Neill, and Bud Wetzler

Staff – Executive Director Stacey Fulhorst, General Counsel Christina Cameron, Program Manager Steve Ross, Senior Investigator Lauri Davis, and Executive Secretary Kathy Hunt

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

**Approval of Ethics Commission Minutes of January 20, 2011**

Motion: Approve

Moved/Seconded: Wetzler/O'Neill

Vote: Carried Unanimously

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

None

**Item-5: Commissioner Comment**

Commissioner Biddle reported that he and Commissioner Fuller recently viewed files for complaints that were dismissed by the Commission's Executive Director.

He explained that according to Commission procedures, the Commission's Executive Director is allowed to dismiss complaints through a preliminary review process without Commission review. He further explained that two commissioners review the dismissed files once a year to ensure that the cases were properly dismissed. He indicated that they viewed all the dismissed complaints since the last Commission review, and found that they all were properly dismissed.

**Item-6: Executive Director Comment**

None

**Item-7: General Counsel Comment**

None

**Item-8: Application of Pre-Election Fundraising Time Constraints to 2012 Primary Election**

Director Fulhorst reported that as previously discussed at the last two Commission meetings, there is the possibility that the state may move up the date of the 2012 statewide primary election from June to as early as March or April. Staff presented the matter because they received questions concerning the application of the City's 12 month pre-election fundraising time limit.

Director Fulhorst advised that at this time, staff does not require further direction from the Commission because there has not been any activity at the state level other than the introduction of a State Assembly bill that would maintain the City's June primary election date.

Commissioner O'Neill commented that he believes the matter will remain an issue for the Commission as long as there is a possibility that the primary election date could be moved up.

Director Fulhorst advised that it is very possible that the state will not take action to move the primary date up until sometime after June of this year, which would mean the City's 12 month pre-election fundraising time limit would not be impacted. She added that she has contacted the governmental affairs staff in the Mayor's office and suggested that they may want to work with Sacramento legislators to see that a bill is introduced in the near future if indeed the election date will ultimately be moved up. She reported that the staff has advised the public that the Commission is waiting for some affirmative action at the state level suggesting that the primary date might be changed before taking any action concerning the interpretation of the City's campaign laws. She indicated that staff will keep the Commission updated through June.

**Item-9: Information Provided on Commission Meeting Agendas for Items Discussed During Closed Session**

Commission Chair Westfall explained that he recently decided to add the Commission's investigation case numbers to the closed session portion of the Commission's meeting agendas. He noted that the meeting backup materials include a copy of the Commission's redacted case log which illustrates the case numbers and information that is available to the public. He pointed out that the log does not include the identity of the various complainants and respondents.

Director Fulhorst advised that the Commission's investigation procedures were created with safeguards to ensure that information concerning investigations would be confidential until the matter was either closed and until all applicable statutes of limitations had expired. Accordingly, she explained that the respondent's name is only added to the case log when a matter is closed without an investigation, or when a matter is settled via stipulation. She added that the identity of the complainant is never released as it could deter people from coming forward with complaints.

Commission Chair Westfall asked about the practice of other jurisdictions.

Director Fulhorst responded that other jurisdictions have different practices, and that the Fair Political Practices Commission currently provides the names of complainants and respondents on its website shortly after cases are approved for investigation.

Commission Chair Westfall explained that he added the case numbers to the agenda so that respondents would know when their matters were being discussed in closed session. He added that he docketed this issue for discussion to give the Commissioners an opportunity to comment on this practice.

Commissioner Biddle noted that adding the case numbers to the agenda will give respondents the ability to be more involved with the investigative process.

Commissioner Detsky-Weil asked whether the redacted case log was available on the Commission's website.

Director Fulhorst responded that although the document is not currently online, she has conferred with the Commission Chair regarding the possibility. She noted that there are public policy and staffing issues that would need to be considered. For example, she questioned whether it would be a good public policy to provide the names of respondents in cases that did not merit investigation on the Internet, while withholding the names of respondents who were the subjects of investigations.

Commissioner O'Neill asked about the rationale for providing respondents' names on the case log.

Director Fulhorst explained that, because the Municipal Code states that Commission files will not be released until the matter is closed and all applicable statutes of limitations have expired, the Commission decided not to disclose the names of the respondents in cases authorized for investigation on the log. However, she noted that the Municipal Code does permit the Commission to comment on a matter once it is closed. She indicated that Ms. Cameron will research this Municipal Code distinction and advise the Commission whether it is permissible to include the respondents' names in the redacted case log.

The Commission supported the practice of adding case numbers to the Commission meeting agenda and agreed to table the matter of posting the Commission's redacted case log on the Internet.

#### **Item-10: Adjournment to Closed Session**

Commission Chair Westfall adjourned the meeting to Closed Session at approximately 5:30 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**

Commission Chair Westfall called the meeting back into open session at approximately 5:55 p.m.

#### **Reporting Results of Closed Session Meeting of February 10, 2011**

Commission Chair Westfall reported the results of the Closed Session Meeting of February 10, 2011.

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

##### **Case No. 2011-11 - In Re: Alleged Attempt to Influence a Municipal Decision Involving Economic Interests**

Motion: Initiate Investigation  
Vote: Carried Unanimously

##### **Case No. 2011-12 – In Re: Alleged Improper Acceptance of Contributions and Improper Use of Campaign Funds**

Motion: Initiate Investigation  
Vote: Carried Unanimously

**Item-2: Conference with Legal Counsel (1 Potential Matter)**

**Case No. 2011-09 – In Re: Alleged Misuse of City Position and Alleged Violation of Post Employment Lobbying Laws**

No Reportable Action

**Adjournment**

The meeting adjourned at approximately 6:00 p.m.

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Larry Westfall, Commission Chair  
Ethics Commission

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Katherine Hunt, Executive Secretary  
Ethics Commission

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