



**Minutes for Meeting of
Thursday, April 14, 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, and Senior Investigator Lauri Davis

Item-3: Approval of Commission Minutes

Approval of Ethics Commission Minutes of March 10, 2011

Motion: Approve
Moved/Seconded: Wetzler/O'Neill
Vote: Carried Unanimously
Excused: Fuller

Item-4: Non-Agenda Public Comment

None

Item-5: Commissioner Comment

None

Item-6: Executive Director Comment

Director Fulhorst provided the following information:

- The Mayor will be re-appointing Commissioners Detsky-Weil, O'Neill, and Westfall to another four-year term beginning July 1, 2011. City Council docketing of the reappointments should take place within the next two to four weeks.
- She spoke to the California Political Treasurers Association on March 13, 2011. She encouraged more professional treasurers to work for San Diego candidates, and two have agreed to do so in the 2012 election cycle. She also noted that the two professional treasurers located in San Diego praised the Commission staff for their responsiveness to inquiries during prior campaign seasons.
- The Ethics Commission's budget presentation to City Council is scheduled for May 11, 2011, at 9:00 a.m. The Mayor released his proposed budget today and has not suggested any substantial changes to the Commission's budget. She reminded the Commissioners that the Mayor previously agreed to transfer funding for a staff General Counsel to the non-personnel portion of the Commission's budget to enable the Commission to pay for outside counsel and hearing costs.

Commissioner Fuller asked about the projected costs for outside attorneys and hearing officers. Director Fulhorst explained that the approximate rate for an attorney to serve as the petitioner and an Administrative Law Judge to preside over a hearing is \$200 per hour each, and that the estimated total cost per hearing is \$10,000 to \$20,000. She added that the current proposed budget should be sufficient in light of the fact that only three respondents have opted for a hearing in lieu of settlement in the Commission's ten-year history. However, she noted that during her budget presentation to Council she will point out that additional funding will be required should many respondents opt for a hearing and request an Administrative Law Judge.

Commissioner O'Neill asked if the list of suggested budget reductions released earlier this week by the City Council included any items related to the Ethics Commission. Director Fulhorst replied that it did not include anything specific concerning the Commission.

Item-7: General Counsel Comment

Ms. Cameron mentioned that the Western City publication has been running a good series of articles regarding state law gift rules, which she will distribute via email.

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

Director Fulhorst reported that Assembly Bill 80, which would combine the presidential and statewide primaries to June, was unanimously approved by the Assembly and has been forwarded to the Senate. There has been no action with respect to Senate Bill 782, which provides for the elimination of a comma in the existing law; however, she noted that according to a blog, the “comma” amendment was introduced to meet a deadline, and there may be an effort by Republican State Senators to move the presidential and/or statewide primaries to March of 2012.

Item-9: General Counsel Report Concerning Information Provided on Case Logs

Director Fulhorst reminded the Commissioners that this issue arose a few months ago, and that the Commissioners asked Ms. Cameron to research the issue of whether the identity of a Respondent may be provided on case logs distributed to the public in matters that were authorized for formal investigation but subsequently closed without enforcement.

Ms. Cameron summarized the results of her research, which were delineated in her memo to the Commission dated April 8, 2011. She explained there is no implied or actual confidentiality regarding a respondent’s name after the Commission has made a probable cause determination or after the closure of the case. In addition, she advised that the disclosure of this information on the Commission’s case log would further the public’s interest in transparency.

Commissioner Howatt asked about whether the public would receive information regarding the reason for a dismissal in a particular case if the respondent’s name were provided on a case log.

Director Fulhorst explained that letters are always sent to the complainant and the respondent explaining the reasons for a dismissal, and that a respondent typically provides this letter to the media whenever there are questions raised about the investigation. In addition, she noted that the case logs include a series of numbered codes that correspond to general reasons for dismissal. She indicated that she does not believe these codes distinguish between dismissals based on insufficient evidence and those in which a respondent is exonerated. She agreed to send the Commissioners a list of these codes for them to review and to consider whether additional codes are desirable.

Motion: Include the identity of respondents on case logs distributed to the public whenever a matter is authorized for investigation and subsequently closed.

Moved/Seconded: O’Neill/Wetzler

Vote: 6 – 1 (Biddle dissenting)

Item-10: Adjournment to Closed Session

Commission Chair Westfall adjourned the meeting to Closed Session at approximately 5:25 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 6:35 p.m.

Reporting Results of Closed Session Meeting of April 14, 2011

Ms. Cameron reported the results of the Closed Session Meeting of April 14, 2011.

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

Case No. 2011-13- In Re: Alleged Violation of the Ethics Ordinance

Motion: Initiate Investigation
Vote: Carried Unanimously

Case No. 2011-25 – In Re: Alleged Failure to Disqualify from a Municipal Decision Affecting Economic Interests

Motion: Initiate Investigation
Vote: Carried Unanimously

Item-2: Conference with Legal Counsel (10 Potential Matters)

Case No. 2010-45 – In Re: Alleged Failure to File Campaign Statements

Motion: Dismiss
Vote: Carried Unanimously

Case No. 2010-88 – In Re: Alleged Failure to File Campaign Statements and to include “Paid for By” Disclosure

Motion: Dismiss
Vote: Carried Unanimously

Case No. 2010-89 – In Re: International Brotherhood of Electrical Workers – Local 569 - Alleged Failure to Timely File Campaign Statements

Motion: Approve Stipulation
Vote: Carried Unanimously

Case No. 2011-02 – In Re: Ronald Buckley – Alleged Failure to Timely File Lobbying Disclosure Report

Motion: Approve Stipulation
Vote: Carried Unanimously

Case No. 2011-03 – In Re: Alleged Failure to File Lobbying Disclosure Report

Motion: Dismiss
Vote: Carried Unanimously

Case No. 2011-04 - In Re: Gerding Edlen Development - Alleged Failure to Timely File Lobbying Disclosure Report

Motion: Approve Stipulation
Vote: Carried Unanimously

Case No. 2011-05 – In Re: Alleged Failure to Timely File Lobbying Disclosure Report

No Reportable Action (Commissioner John O'Neill recused)

Case No. 2011-06 - In Re: Alleged Failure to Timely File Lobbying Disclosure Report

Motion: Dismiss
Vote: Carried Unanimously

Case No. 2011-07 - In Re: UNITE HERE Local 30 - Alleged Failure to Timely File Lobbying Disclosure Report

Motion: Approve Stipulation
Vote: Carried Unanimously

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 6:40 p.m.

Larry Westfall, Commission Chair
Ethics Commission

Katherine Hunt, Executive Secretary
Ethics Commission

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