



**Minutes for Meeting of
Thursday, October 14, 2004**

Item-1: Call to Order

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

Item-2: Roll Call

Present – Chairwoman Dorothy L .W. Smith, Vice Chairwoman Dorothy Leonard, Commissioners Charles H. Dick, Jr., April Riel, Greg Vega, and Larry S. Westfall.

Staff – Executive Director Stacey Fulhorst, Deputy City Attorney Rick Duvernay, Senior Investigator Lauri Davis, and Executive Secretary Janet MacFarlane.

Excused – Commissioner Karen Thomas-Stefano.

Item-3: Reporting Results of Closed Session

Chairwoman Smith reported the results of the Closed Session meeting of September 9, 2004.

Item I: Conference with Legal Counsel (1 Potential Matter)

In re: San Diego Ethics Commission Final Audit Report: Re-Elect Donna Frye

Motion: To accept the audit report and take no further action.

Excused: Vega

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

Case No. 2004-24 – In re: Gregory Diethrich – Alleged Failure to File Economic Disclosure Report

Motion: Ordered a Probable Cause Hearing and authorized the issuance of a Probable Cause Report and Draft Administrative Complaint. Hearing scheduled for Wednesday, November 10, 2004, at 3:00 p.m.

Excused: Vega

Case No. 2004-43 – In re: Alleged Failure to File Financial Disclosure Report

No reportable action.

Case No. 2004-17 – In re: Alleged Misuse of City Position for Personal Benefit

Motion: Dismiss

Excused: Vega

Item-4: Approval of Commission Minutes

APPROVAL OF COMMISSION MINUTES OF SEPTEMBER 9, 2004.

Motion: Approve

Moved/Seconded: Leonard/Westfall

Vote: Unanimous

Abstained: Vega

Excused: Thomas-Stefano

Item-5: Non-Agenda Public Comment

None.

Item-6: Commissioner Comment

Commissioner Westfall made the following statement for the record: "As reported, the Commission voted 4 to 2 to dismiss Complaint No. 2004-17. As noted by the Chair, I made one of the dissenting votes. While I respect the process and can accept the Commission's decision, I simply want the record to reflect my strong opinion that it raises serious ethical implications when City Officials use their power or authority over subordinates to secure personal benefits. City Officials should only use their authority to further the public's business. The public trust is not served in any circumstance when personal benefit rather than a public purpose motivate public officials. City employees do not deserve to be placed in untenable positions by City Officials."

In response to Chairwoman Smith, Executive Director Fulhorst stated an important element of education was increased awareness by city employees of the ethics ordinances. She noted a presentation made earlier in the day to the City's Auditor's

office where she emphasized the various aspects of the ethics ordinance. In addition, Director Fulhorst stated she had been in contact with City TV on the concept of developing a five- to ten-minute informational video geared toward classified city employees. The video could be accessed from the Ethics Commission website.

Item-7: Executive Director Comment

Director Fulhorst reported the Civil Service Commission exempted the position of the General Counsel position with the Ethics Commission from the classified service. She further reported she was in contact with the Personnel and Human Resources Departments to advertise the position.

Ms. Fulhorst further reported she was hopeful that the online recertification program being developed with the San Diego Data Processing Corporation would be ready for testing in November.

Item-8: Deputy City Attorney Comment

None.

Item-9: Recent Amendments to the Election Campaign Control Ordinance

Executive Director Stacey explained potential problems with the District Four Special Election should there be a runoff on January 4, 2005, because of various ECCO provisions that are to become effective January 1, 2005.

Motion: Direct staff to pursue the best resolution to exempt District Four candidates from the provisions of ECCO scheduled to become effective January 1, 2005.

Moved/Seconded: Leonard/Riel

Vote: Unanimous

Excused: Thomas-Stefano

Item-10: Appointment of Personnel Ad Hoc Committee with Respect to Recruitment and Employment of Ethics Commission General Counsel

Chairwoman Smith appointed Commissioners Dick and Vega to serve with her on the Ad Hoc Committee for the recruitment and review of candidates for the Commission's General Counsel position.

Item-11: Adjournment to Closed Session

Chairwoman Smith adjourned the meeting to Closed Session at approximately 5:35 p.m. She stated if the Commission took any action that must be reported pursuant to the Brown Act, the Commission would reconvene into Open Session to report on that action.

Reconvene to Open Session

The Commission reconvened to Open Session at approximately 6:45 p.m.

Chairwoman Smith reported the following:

The Commission approved a Stipulation, Decision and Order with the San Diego Police Officers Association and C. April Boling in final Settlement of Case No. 2004-43 concerning the failure to timely file an Independent Expenditure Report. Copies of the Stipulation are available to the public.

Adjournment

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

Dorothy L. W. Smith, Chairwoman
Ethics Commission

Janet MacFarlane, Executive Secretary
Ethics Commission

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