



**Minutes for Meeting of Thursday,  
August 11, 2005**

**Item-1 Call to Order**

Chairwoman Leonard called the meeting to order at 5:05 p.m.

**Item-2: Roll Call**

Present – Chairwoman Dorothy Leonard, Vice-Chair Larry Westfall, Commissioners Lee Biddle, Gil Cabrera, Charles H. Dick, Jr., Karen Thomas-Stefano

Staff – Executive Director Stacey Fulhorst, General Counsel Cristie C. McGuire, Senior Investigator Lauri Davis, Financial Investigator Dee Dee Alari, and Executive Secretary Katherine Hunt

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

**Approval of July 14, 2005, Ethics Commission Minutes**

Motion: Approve  
Moved/Seconded: Cabrea/Westfall  
Vote: Unanimous  
Abstained: Biddle, Dick

**Approval of August 1, 2005, Ethics Commission Minutes**

Motion: Approve  
Moved: Dick/Cabrera  
Vote: Unanimous

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

Mel Shapiro questioned the status on the proposed conflict of interest policies for Ethics Commissioners. He also questioned the motion made by the Commission to initiate a new investigation at the August 1, 2005, meeting in connection with Case No. 2004-03.

Director Fulhorst advised that, with regard to the conflict of interest policies for Ethics Commissioners, she will be providing a draft of the proposal for the Commission to review before the end of the year.

She addressed Mr. Shapiro's question regarding the motion made in connection with Case No. 2004-03, and explained the original case was still open and another violation was discovered during the course of the investigation which resulted in the initiation of a new investigation.

**Item-5: Commissioner Comment**

Chairwoman Leonard commented that all the appointed Commissioners were in attendance and mentioned the Director was working with the Mayor's Office to recruit a seventh commissioner.

**Item-6: Executive Director Comment**

Director Fulhorst reported that the online ethics training was ready for testing by the Ethics Commissioners. She added that training for candidates for Council Districts 2 and 8 is scheduled for August 30, 2005.

She also mentioned that the Treasurer's Office has agreed to assume collection of fines for Ethics Commission stipulations and has provided an outline for the collection process. She explained the process includes a first and second notice. If payment isn't made, the matter is assigned to an investigator and referred for legal action. She pointed out that this arrangement is important in light of the Diethrich case, where payment for a stipulated fine was never made by the Respondent.

**Item-7: General Counsel Comment**

None.

**Item-8: Request for Informal Advice**

Director Fulhorst reported on a matter regarding a request for advice concerning the contribution of goods or services to a candidate's campaign from the candidate's solely owned printing business. She discussed the issues outlined in the staff report, including the staff recommendation that, as long as the candidate operates a business as a sole proprietor (as opposed to a separate legal entity), that entity should be allowed to make contributions to the candidate's campaign. Such contributions would be reflected on campaign statements as contributions from the candidate.

Chairwoman Leonard recommended that the Commission vote on this issue to show they concur with the staff recommendation. She also suggested that this issue be incorporated into the "Frequently Asked Questions" on the Commission's website.

Motion: Approve  
Moved/Seconded: Dick/Cabrera  
Vote: Unanimous

**Item-9: Legislative Agenda for 2005 – 2006**

Director Fulhorst discussed the proposed legislative agenda for 2005-2006. In particular, she discussed the timing of the proposed changes to the Investigative and Enforcement Procedures as well as proposed amendments to the Election Campaign Control Ordinance. Director Fulhorst indicated that it will be important to bring proposed amendments to ECCO (including a provision for electioneering communications) to the City Council later this year so that the changes will be in effect well in advance of the June 2006 primary election.

She reported on the status of proposed changes to the Lobbying Ordinance and mentioned that workshops will be conducted later this year.

Chairwoman Leonard questioned whether the changes to the Commission's conflict of interest code would be added to the legislative agenda. Director Fulhorst responded that it will be handled internally and will be brought back to the Commission before the end of the year.

**Item-10: Presentation of Final Audit Report Regarding the Audit of the No on Proposition J Committee from the 2004 Election Cycle**

Financial Investigator Alari reported that there were no material findings.

Motion: Accept Report  
Moved/Seconded: Westfall/Stefano  
Vote: Unanimous

**Item-11: Policy Regarding Release of Commission's Investigative Records to Other Law Enforcement Agencies**

Director Fulhorst reported on a proposed policy concerning the release of Commission investigative records to other law enforcement agencies. She mentioned meeting with Pat O'Toole, the Head Deputy in charge of the City Attorney's Public Integrity Unit, and related that he recommended the Commission adopt a policy that would consider sharing records on a case by case basis.

Director Fulhorst discussed the recommendations outlined in the staff report. She advised that, if a request for records concerns a pending investigation, it should be discussed by the Commission in closed session. In the alternative, if a request for records concerns a closed matter, she recommended that the Director confer with staff and the Commission Chair or Vice-Chair to make a determination based on both legal and policy considerations.

Pat O'Toole (speaking as a private citizen) commented the proposed policy would give the Commission the discretion to decide which cases to turn over to other agencies. He suggested that the Commission consider the objectives outlined in San Diego Municipal Code section 26.0420 when deciding whether to produce investigative records to another law enforcement agency.

Commissioner Dick expressed his opinion that a decision to release Ethics Commission records should be considered by the Commissioners instead of staff. Director Fulhorst explained that the Brown Act would not permit the Commission to discuss a closed matter in closed session, and added that the discussion of a pending investigation by another law enforcement agency in open session would not be desirable.

Chairwoman Leonard asked the Commission's General Counsel to conduct some additional research regarding the ability of the full Commission to be involved in all decisions regarding the release of Commission records while at the same time handling requests in a confidential manner.

Ms. McGuire advised she will report back at the next meeting regarding this matter.

## **Item-12: Adjourn to Closed Session**

Chairwoman Leonard adjourned the meeting to Closed Session at approximately 6:00 p.m.

## **Reporting Results of Closed Session**

Chairwoman Leonard reported the results of the Closed Session meeting of August 11, 2005:

### **Item 1 - Conference with Legal Counsel (4 potential matters)**

#### **Case No. 2005-19 - Alleged Illegal Campaign Contribution**

Motion: Approve Investigation  
Moved/Seconded  
Vote: Unanimous

#### **Case No. 2005-20 – Alleged Failure to Obtain Required Contributor Information**

Motion: Approve Investigation  
Moved/Seconded  
Vote: Unanimous

#### **Case No. 2005-21 – Alleged Failure to Obtain Required Contributor Information**

Motion: Recuse Commissioner Dick  
Moved/Seconded  
Vote: Unanimous

Motion: Approve Investigation  
Moved/Seconded  
Vote: Unanimous  
Recused: Dick

#### **Case No. 2005-22 – Alleged Financial Interest in Contract, Failure to Disqualify from Municipal Decision Affecting Economic Interests, and Misuse of City Position**

Motion: Approve Investigation  
Moved/Seconded  
Vote: Unanimous

**Item 2 - Conference with Legal Counsel (3 Potential Matters)**

**Case No. 2004-58 – Alleged Contribution in Excess of Limit**

No Reportable Action

**Case No. 2005-11 – Alleged Acceptance of Gift in Excess of Limit**

Motion: Dismiss  
Moved/Seconded  
Vote: Unanimous

**Case No. 2005-12 – Alleged Acceptance of Gift in Excess of Limit**

Motion: Dismiss  
Moved/Seconded  
Vote: Unanimous

**Adjournment**

The meeting adjourned at approximately 6:42 p.m.

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Dorothy Leonard, Chairwoman  
Ethics Commission

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Kathy Hunt, Executive Secretary  
Ethics Commission

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UPON REQUEST.***