



**Minutes for Meeting of
Thursday, October 11, 2007**

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 Lee Biddle, Commissioners Clyde Fuller, Krishna Haney, Richard Valdez and Larry Westfall

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

Excused – Commissioner Dorothy Leonard

Item-3: Approval of Commission Minutes

Approval of Ethics Commission Minutes if September 13, 2007

Motion: Approve
Moved/Seconded: Valdez/Haney
Vote: Carried Unanimously
Excused: Leonard

Item-4: Non-Agenda Public Comment

None

Item-5: Commissioner Comment

Chairman Cabrera welcomed the new Ethics Commission Counsel Alison Adema.

Item-6: Executive Director Comment

Director Fulhorst introduced Alison Adema and commented on her previous experience as a private sector attorney. She noted that Ms. Adema had practiced law for seven years at the firm of Baker and MacKenzie, the same firm where former Commissioner Chuck Dick is the managing partner.

Director Fulhorst commented on the extensive job duties of the Commission's Executive Secretary Kathy Hunt and thanked her for her support of the Commission and staff.

Director Fulhorst reported on the following Commission matters:

Election Campaign Control Ordinance and Audit Manual

The City Council approved the recent changes recommended by the Ethics Commission to the Election Campaign Control Ordinance (ECCO) and the Commission's Audit Manual. The changes will become effective thirty days after the second reading of the ordinances. The changes to ECCO will require candidates and committees to disclose the cumulative amount of contributions received from each contributor for each election.

Director Fulhorst noted that Councilmember Donna Frye recommended that the Commission change its procedures in order to schedule the random drawing for audits of election campaign committees earlier in the year. She explained that ECCO allows candidates and committees to continue fundraising and retiring debts for 180 days after an election. She pointed out that conducting the drawing before the 180-day period had expired would effectively put some candidates on notice that their ongoing activities would not be audited by the Commission.

Proposed State Legislation

Assembly Bill 1441 has been signed by the Governor and will become effective January 1, 2008. This bill concerns a change in the law that will allow local candidates to maintain separate committees for legal defense funds.

Assembly Bill 1430 is still in the Governor's Office. This bill aims to prevent local jurisdictions from imposing any limitations on member communications.

Item-7: General Counsel Comment

Ms. Adema commented that she was looking forward to serving as the Commission's new Counsel.

Item-8: Proposed Amendments to Election Campaign Control Ordinance

Chairman Cabrera commented that the proposed amendments were docketed to provide an opportunity for the Commissioners to share their views concerning the proposed changes. He suggested that the Commission form a subcommittee to draft the proposed changes after the Commission has decided on policy recommendations.

Director Fulhorst advised that the goal was to have any amendments become effective January 1, 2009, so that the changes would be in place for the 2010 election. She cautioned that addressing too many proposed amendments could mean that the changes would not become effective until the 2012 election.

The following proposed changes were addressed:

Campaign Contribution Limits

Director Fulhorst reported that the issue of raising contribution limits was previously considered by the Commission. The consensus at that time was to maintain the current contribution levels of \$250.00 for district elections and \$350.00 for citywide elections with the inclusion of an indexing factor. Although previous candidates were able to raise large amounts of money within the existing contribution limits, the Commission continues to receive input from candidates that the contribution limits are too low. She referred to the chart prepared by staff listing the contribution limits for the nation's 15 most populated cities.

Chairman Cabrera suggested that the Commission address the issue of whether to raise the existing contribution limits.

Director Fulhorst pointed out that the limits have not increased since they were first established by the City's campaign laws in 1973. She added that if the 1973 limit was indexed for inflation, it would result in a contribution limit of approximately \$1,200.00. She pointed out that contribution limits were originally established to avoid the appearance of corruption associated with large contributions to City candidates and officeholders.

Commissioner Westfall suggested that in addition to addressing whether to raise contribution limits, the Commission should address the issue of whether to eliminate limits altogether and require immediate disclosure of all contributions.

Commissioner Haney expressed her view that the City should have contribution limits with adjustments made for inflation. She added that raising limits may reduce the influence of special interests groups.

Commissioner Biddle noted that raising limits may not necessarily eliminate a candidate's reliance on special interests and independent expenditures.

Commissioner Fuller suggested that there should be an emphasis placed on disclosure of campaign contributions rather than on contribution limits.

Commissioner Valdez disagreed with eliminating contribution limits. He supported limits being raised to reflect inflation rates. He referred to Director Fulhorst's comments regarding candidates expressing support for increased limits and asked if any input had been received by the public.

Director Fulhorst responded that there has not been an opportunity for public input since the hearings for the 2003-2004 changes to the ordinance were held. However, the public input received during those hearings reflected a perception that contribution amounts from individual "grassroots" contributors will always be less than those contributors doing business with the City.

Commissioner Biddle suggested that staff report back on how other jurisdictions increase contribution limits for candidates when their opponents benefit from independent expenditures or contribute large amounts of personal wealth to their own campaigns.

Director Fulhorst responded that such adjustments to contribution limits are usually made in jurisdictions that have public financing. She indicated that it would be feasible to increase limits in cases where a candidate contributes to his own campaign. However, she pointed out that it may be difficult to adjust limits in connection with independent expenditures because it is sometimes difficult to determine whether a candidate benefited from a particular independent expenditure. She advised that staff will report back with information regarding the provisions that are in place in other jurisdictions.

Chairman Cabrera reported that the matter of public financing will be docketed for discussion at the December meeting.

The Commission discussed various options with regard to contribution limits including the option of eliminating limits all together.

Chairman Cabrera indicated that he is not supportive of completely eliminating contribution limits. He noted that although raising the limits may not necessarily remove the influence of special interests groups, it may provide candidates not aligned with special interests groups more opportunity to remain independent with respect to fundraising.

Commissioner Valdez pointed out that any proposal to eliminate contribution limits was a policy issue that should be decided by the Commission and not assigned to staff to make a recommendation. However, he indicated he would support contribution limits.

Commissioner Biddle commented that because the laws concerning contribution limits are some of the most significant provisions in ECCO, the Commission should seek public input regarding the matter.

Commissioner Fuller agreed that it would be helpful to have input from individuals involved in professional campaign fundraising.

Director Fulhorst indicated that interested members of the public were notified that this matter was being addressed at the Commission meeting and that they would be notified of other upcoming meetings. In addition, she stated that staff would communicate to campaign treasurers and other individuals involved in professional fundraising that the Commission has specifically asked for their input at the November meeting.

Chairman Cabrera noted that the discussion indicated the Commission was in favor of an increase to contribution limits. He suggested continuing discussion concerning eliminating limits altogether to the next Commission meeting in order to receive public comment and then refer the matter to a Commission subcommittee for drafting the proposed changes.

Disclosure of Fundraising Activities by Candidates

Director Fulhorst commented that the matter of candidates disclosing fundraising activities arose during the consideration of changes to the City's lobbying laws that resulted in requiring lobbyists to disclose their fundraising activities. She noted that the Commission indicated that it would be appropriate to consider this issue when considering amendments to ECCO. She advised that, although other jurisdictions do not require fundraising disclosure by candidates, the Federal government enacted laws that require Federal candidates to disclose information regarding supporters that engaged in fundraising for their campaigns.

Commissioner Fuller pointed out that if candidates are not aware of fundraising done on their behalf, they would not be able to disclose this information.

In response to Commissioner Fuller's remarks, Director Fulhorst explained the provisions in the lobbying ordinance that require lobbyists to report fundraising activities only if they deliver contributions or take credit with the candidate for raising the contributions. She suggested that the same standard could be used for candidates if the Commission decided to include this disclosure requirement. She noted that the purpose for presenting this proposal for Commission discussion was to receive input from Commission members and the public and to gauge potential difficulties that would need to be addressed.

Commissioner Biddle commented that this proposal would present a different set of disclosure problems for candidates than for fundraisers.

Chairman Cabrera suggested requiring disclosure of fundraising activity by the individual supporters who fundraise for a candidate. However, he recommended using a greater reporting threshold than the Lobbying Ordinance requires for lobbyists who fundraise.

Senior Investigator Lauri Davis reported that her observation has been that campaign committees keep track of the amounts raised by individual supporters.

Director Fulhorst pointed out that state law requires major donors to disclose contributions made throughout the state, and also requires candidates and committees to notify them of their filing responsibilities after they've reached a certain contribution threshold.

Commissioner Haney agreed with Commissioners Fuller and Biddle that it would not be a good idea to shift the burden of disclosing fundraising activities from the fundraisers to the candidates.

Commissioner Valdez expressed support for Chairman Cabrera's proposal to use a reporting threshold amount as a means to capture disclosure of fundraising activity by campaign fundraisers.

Chairman Cabrera pointed out that people who fundraise for City candidates generally have an advantage with regard to having access to the elected officials who benefited from the fundraising. He noted that reporting requirements are a means of avoiding the appearance of corruption.

Director Fulhorst pointed out that adding disclosure requirements for fundraisers would result in them being subject to the education and enforcement authority of the Commission.

Commissioner Westfall supported Chairman Cabrera's proposal and suggested receiving public input on the matter.

Post-Election Fundraising Time Period

Director Fulhorst reported on a proposal that would exempt candidates from the current post-election fundraising time limit by allowing them to deposit their own funds into their campaign committee bank account after the 180-day time period.

The consensus of the Commission was to support the proposal.

Production of Campaign Literature to Ethics Commission

Director Fulhorst referred to the Commission's "paid for by" disclosure requirement on mass campaign literature that was adopted in 2004. She advised that staff has proposed adding a change to ECCO that would require all candidates and committees send a copy of all mass produced campaign literature to the Commission. She explained that this change would likely ensure greater compliance with the campaign laws. However, she noted that if the change was implemented, noncompliance would result in a violation of the Commission's laws. She pointed out that there are other jurisdictions that have adopted this requirement.

The Commission discussed the proposal and came to the consensus that campaign committees should be required to keep a copy of every piece of campaign literature that they send out rather than forwarding copies to the Commission.

Item-9: Adjournment to Closed Session

Chairman Cabrera adjourned the meeting to Closed Session at approximately 6:15 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 6:55 p.m.

Reporting Results of Closed Session Meeting of October 11, 2007

Chairman Cabrera reported the results of the Closed Session Meeting of October 11, 2007.

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

Case No. 2007-40 – In Re: Alleged Failure to File Lobbyist Disclosure Reports

Motion: Reopen Investigation
Vote: Carried Unanimously
Excused: Leonard

Case No. 2007-91 – In Re: Alleged Failure to File Lobbyist Disclosure Report

Motion: Initiate Investigation
Vote: Carried Unanimously
Excused: Leonard

Item 2: Conference with Legal Counsel (29 potential matters)

Case No. 2007-06 – In Re: Alleged Failure to File Lobbyists Quarterly Disclosure Report

Motion: Dismiss
Vote: Carried Unanimously
Excused: Leonard

Case No. 2007-12 – In Re: Alleged Failure to Properly Disclose Economic Interests

Motion: Recuse Commissioner Valdez
Vote: Carried Unanimously
Excused: Leonard
Abstained: Valdez

Motion: Dismiss
Vote: Carried Unanimously
Excused: Leonard
Recused: Valdez

Case No. 2007-39 In Re: Alleged Failure to File Lobbying Reports

Motion: Ordered a Probable Cause Hearing and Authorized the issuance of a Probable Cause Report and Draft Administrative Complaint. Hearing scheduled for January 4, 2008, at 9:00 a.m.
Vote: Unanimous
Excused: Leonard

Case No. 2007-71 – In Re: Alleged Failure to Properly Disclose Economic Interests

Motion: Dismiss
Vote: Carried Unanimously
Excused: Leonard

Case No. 2007-85 – In Re: Alleged Violation Regarding Loan to Campaign Committee in Excess of Limit

Motion: Dismiss
Vote: Carried Unanimously
Excused: Leonard

Cases 2007-44, 2007-45, 2007- 48, 2007-49, 2007-51, 2007-52, 2007-55 through 2007-59, 2007-61 through 2007-66, 2007-68 – In Re: Failure to File Statement of Economic Interests

Motion: Dismiss
Vote: Carried Unanimously
Excused: Leonard

Case No. 2007-47 – In Re: Jeffrey Dunnigan – Alleged Failure to File Statement of Economic Interests

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Leonard

Case No. 2007-50 – In Re: Susana Krieger – Alleged Failure to File Statement of Economic Interests

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Leonard

Case No. 2007-53 - In Re: Anthony Lovio – Alleged Failure to File Statement of Economic Interests

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Leonard

Case No. 2007-60 - In Re: Andrea Roberts – Alleged -Failure to File Statement of Economic Interests

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Leonard

Case No. 2007-67 - In Re: Steve Sobel - Failure to File Statement of Economic Interests

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Leonard

Case No. 2007-46 – In Re: Failure to File Statement of Economic Interests

Motion: Ordered a Probable Cause Hearing and Authorized the issuance of a Probable Cause Report and Draft Administrative Complaint. Hearing scheduled for January 4, 2008, at 9:00 a.m.
Vote: Unanimous
Excused: Leonard

Item 3: Conference with Legal Counsel (1 Potential Matter)

San Diego Ethics Commission Final Audit Report: Neighborhoods for Accountable Governments, a Committee Against Proposition F

Motion: Accept Report

Vote: Carried Unanimously

Excused: Leonard

Adjournment

The meeting adjourned at approximately 7:00 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.