



**Minutes for Meeting of
Thursday, March 13, 2008**

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, Dorothy Leonard and Larry Westfall

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

Excused – Richard Valdez

Item-3: Approval of Commission Minutes

Approval of Ethics Commission Minutes of February 14, 2008

Commissioner Westfall noted that he did not make a comment that was attributed to him on page 5. The Commissioners could not recall which Commissioner actually made the comment, so staff was directed to modify the minutes to indicate that “a Commissioner” made the remark.

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

Item-4: Non-Agenda Public Comment

None

Item-5: Commissioner Comment

None

Item-6: Executive Director Comment

Director Fulhorst advised that proposed amendments to the Ethics Ordinance concerning future employment were approved by the City Council Rules Committee and will be scheduled for a hearing by the full City Council in the near future. She explained that the proposed changes, which were previously approved by the Commission, would include an exemption for public agencies.

She reminded the Commissioners that April 1, 2008, is the deadline for filing their annual Statements of Economic Interests.

Item-7: General Counsel Comment

None

Item-8: Proposed Amendments to the Election Campaign Control Ordinance

Simon Mayeski shared his comments as presented in a letter to the Commission regarding the consideration of raising campaign contribution limits.

Chairman Cabrera invited Mr. Mayeski to share his thoughts regarding the concept of increased limits resulting in reduced time that candidates spend on fundraising.

Mr. Mayeski responded that the issue of raising limits doesn't concern time spent on fundraising as much as it does who would have the means to contribute the maximum amount if contribution limits were raised.

Chairman Cabrera indicated that the Commission would continue to address the issues concerning contribution limits presented in the February 6, 2008, staff report in order to obtain feedback from the Commissioners. He advised that staff would present information in response to the Commission's requests from the last meeting regarding several matters.

Director Fulhorst commented that there was previous Commission discussion regarding having different contribution limits for district versus citywide races and whether to only impose contribution limits after a certain fundraising threshold was met by candidates. She advised that in response, staff provided to the Commission a historical listing of campaign contributions reported by past candidates for district

and citywide races. She presented an overview of the reported figures and pointed out that the amounts raised by candidates varied widely from district to district and election to election. As a result, she noted that it may be difficult to determine a contribution amount or fundraising threshold that could be applied to all candidates for city elected offices.

Chairman Cabrera commented on two tiered contribution systems that were mentioned in previous discussions. He indicated that he had reservations regarding a system that only imposed limits on contributions received after a set threshold was met because of potential complications. He indicated there wasn't Commission support for a two tiered systems that lifted contribution limits for all candidates up to a certain threshold amount.

Chairman Cabrera also noted that the issue of a two-tiered system involving lifting limits for candidates running in opposition to a self-financed candidate, should be scheduled for future Commission consideration because it is being reviewed by the Supreme Court.

Chairman Cabrera addressed the proposal of adjusting contribution limits for inflation from the 1973 amount (\$250) to approximately \$1,200 as calculated by staff.

Commissioners Haney and Biddle agreed that the issues of raising limits and implementing clean elections should be considered together for purposes of finalizing amendments to contribution limits.

Commissioner Cabrera also agreed that it was important to consider the two matters at the same time. However, he pointed out that it would greatly impact staff to try to address both issues during the middle of an election year and could delay the Commission putting together a proposal in time for City Council approval before the end of 2008.

Director Fulhorst advised that there are time constraints involved when amending campaign laws. She explained that any new laws will need to go into effect in January of an odd numbered year.

Commissioner Leonard suggested that if the Commission supported connecting contribution limits to clean elections, that the two matters be removed from the rest of the proposals scheduled for Commission discussion and scheduled for future consideration. She pointed that the Commission already supported and the City Council approved a cost of living adjustment for contribution limits.

Chairman Cabrera proposed that the Commission address the concept of disclosure of fundraising activity and hold back on Commission consideration of the other matters connected to contribution limits.

Director Fulhorst advised that the new Lobbying laws require the disclosure of fundraising activities by lobbyists. She noted that lobbyists previously expressed the view that the fundraising disclosure requirement should apply to all fundraisers, and not just lobbyists. She commented that the first issue for the Commission to address was whether the candidate or the fundraiser should disclose fundraising activity. She added that Commission enforcement action has revealed that candidates and their committees closely track money that is raised by certain individuals. She also pointed out that ECCO regulates candidates, but does not regulate individual fundraisers. As a result, she indicated that staff would need to determine whether citizens who fundraise are included within the Commission's jurisdiction as laid out by the enabling ordinance.

Commissioner Haney asked if a proposal to include disclosure of fundraising activity would include a fundraising threshold for disclosure purposes.

Director Fulhorst responded that a policy issue to be decided by the Commission is whether to have a different threshold amount than what is indicated in the Lobbying Ordinance.

Chairman Cabrera proposed that the Commission consider the issue of whether to add disclosure requirements for fundraising and determine who would be held responsible for the disclosure. He suggested that the Commission address the threshold amount at a later date as it is related to contribution limits.

Director Fulhorst pointed out that several other jurisdictions require lobbyists to disclose fundraising activities. She added that staff is not aware of any other jurisdictions that require disclosure of fundraising by non-lobbyists.

Commissioner Leonard suggested that if disclosure of fundraising is required that the campaign treasurer be required to disclose it and not the fundraiser.

Director Fulhorst noted that the proposed disclosure would require campaigns to file a separate one page form that indicated the total amount raised and would not be part of the State's electronic form.

Chairman Cabrera pointed out that any proposed disclosure of fundraising activity by campaigns would be dependent upon campaigns tracking fundraisers by maintaining records. He noted that this tracking system would need to be reflected in the language of the ordinance. He expressed his view that the public has an interest in knowing who does fundraising.

Director Fulhorst raised the point that it's important to ensure that any fundraising disclosure proposal is enforceable. She suggested that regulations be added to the proposal that would require the party making the disclosure to maintain records regarding the tracking of fundraising activities.

Commissioner Biddle expressed concern that adding this proposed disclosure requirement would complicate reporting activity for campaigns. He added that campaigns already disclose employer information from contributors and pointed out that this information can frequently indicate if fundraising has occurred.

Commissioner Leonard commented that the issue was whether the public was interested in disclosure of this type of information.

Commissioner Westfall questioned the value of adding this disclosure because lobbyists who fundraise are already required to disclose this information.

Chairman Cabrera pointed out that fundraisers who are not lobbyists still have the potential to influence public officials by virtue of their fundraising activities.

Commissioner Haney indicated that she does not support disclosure requirements that would require candidates to identify all the individuals who did fundraising for their campaigns because she believes it would result in candidates deciding not to openly track fundraising activities.

Chairman Cabrera proposed that campaigns be required to report only those fundraisers that the campaign is tracking. He asked if the Commission's investigations have revealed internal campaign records that track fundraising activity.

Senior Investigator Lauri Davis responded that staff has seen remittance envelopes that are coded with fundraising information in order to track the contribution to the fundraising event.

Chairman Cabrera suggested that staff draft proposed language that would require campaigns to disclose fundraising activities based on their own internal methods for tracking fundraisers.

Commissioner Leonard recalled that several Councilmembers supported this concept when they were considering changes to the Lobbying Ordinance and indicated she would also support the measure.

Commissioner Haney asked what the purpose would be to add the proposed disclosure to the ordinance if candidates chose not to track fundraisers.

Director Fulhorst explained that if a fundraiser did not take credit for fundraising and fundraising was not tracked by a candidate, it would eliminate the appearance of that individual having special access or influence with an elected City official.

Chairman Cabrera added that campaigns are organized in such a way that it would be difficult for them to not track and maintain records on fundraising. He believes that there is interest in disclosure of this type of activity and recommended that staff

draft a proposal that addresses the issues that were discussed pertaining to disclosure of fundraising activity by a campaign.

The following Commissioners indicated their positions on the proposed disclosure: Commissioner Fuller supports the recommendation with reservations as to how the ordinance would reflect the proposed disclosure; Commissioner Westfall indicated that he does not oppose the proposal; and Commissioner Biddle supports the proposal as long as it doesn't unnecessarily complicate reporting requirements for campaigns.

Item-9: Adjournment to Closed Session

Chairman Cabrera adjourned the meeting to Closed Session at approximately 6:00 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 6:20 p.m.

Reporting Results of Closed Session Meeting of March 13, 2008

Chairperson Cabrera reported the results of the Closed Session Meeting of March 13, 2008:

Item 1: Conference with Legal Counsel (5 potential matters)

Case No. 2007-36 - In Re: Alleged Failure to Disqualify from Municipal Decision Affecting Economic Interests

No Reportable Action

Case No. 2007-72 - In Re: Alleged Failure to Report Economic Interests and to Disqualify from Municipal Decision Affecting Economic Interests

Motion: Dismiss

Vote: Carried Unanimously

Excused: Valdez

Case No. 2006-73 – In Re: Alleged Failure to Register as a Lobbyist

Motion: Dismiss

Vote: Carried Unanimously

Excused: Valdez

Case No. 2006-77 – In Re: Alleged Failure to Register as a Lobbyist

Motion: Dismiss

Vote: Carried Unanimously

Excused: Valdez

Case No. 2007-89 – In Re: Alleged Acceptance of Gift in Excess of Limit

Motion: Ordered a Probable Cause Hearing and Authorized the Issuance of a Probable Cause Report and Draft Administrative Complaint. Hearing scheduled for May 30, 2008, at 9:00 a.m.

Vote: Carried Unanimously

Excused: Valdez

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

Case No. 2006-59 – In Re: Luis Acle

No Reportable Action

Adjournment

The meeting adjourned at approximately 6:25 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.