



**Minutes for Meeting of
Thursday, April 12, 2012**

Item 1: Call to Order

Commission Chair Fuller called the meeting to order at 5:00 p.m.

Item 2: Roll Call

Present – Commission Chair Fuller, Vice Chair William Howatt, Commissioners Faye Detsky-Weil, John O’Neill, and Bud Wetzler (Commissioner Detsky-Weil arrived at 5:05 p.m.)

Excused – Commissioner Cochran

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 8, 2012

Motion: Approve
Moved/Seconded: Howatt/O’Neil
Vote: Carried Unanimously
Abstained: Wetzler
Excused: Detsky-Weil

Item 4: Non-Agenda Public Comment

None

Item 5: Commissioner Comment

None

Item 6: Executive Director Comment

None

Item 7: General Counsel Comment

None

Item 8: Discussion and Possible Action Concerning Proposed Limit for Contributions from Political Parties to City Candidates and Attribution Rules

Director Fulhorst explained that, pursuant to the recent order from the District Court, there are two issues for the Commission to consider: (1) whether to recommend a new limit for contributions from political parties to City candidate, and (2) whether to recommend changes to the current attribution rules to require disclosure of more information in a more timely manner. She explained that because the Court did not provide any guidelines for adoption of a new contribution limit for political parties, she asked UCSD Professor Thad Kousser to compile a report concerning the pros and cons of adopting a limit, relevant legal guidelines, and benchmarks the Commission might consider if it decides to recommend a new limit. This report, together with a chart of contribution limits in place in the 15 largest cities and a listing of contributions made by political parties to City candidates in the 2010 and 2012 election cycles were provided with the backup materials for the meeting. In addition, Ms. Fulhorst noted that the backup materials included a letter from the San Diego County Democratic Party and a PowerPoint presentation from the Republican Party of San Diego County.

Director Fulhorst reminded the Commission that the City Council Rules Committee has asked the Commission to prioritize its recommendations concerning political party contribution limits and attribution rules. She added that she has been asked to report back to the Committee by mid-May, 2012.

William Moore with the San Diego Democratic Party commented regarding the issues addressed in the letter from the Party's Chair. He explained that a direct contribution from a political party signals that the party is not only endorsing the candidate, but is willing to financially support the candidate. He stated that the signaling is more important than the actual amount. He indicated that the Democratic Party believes a \$5,000 contribution limit would be sufficient to fulfill its rights of association and would pass constitutional muster; however, from a public policy perspective, the Democratic Party recommends a \$10,000 limit. He also indicated that the Democratic Party does not support any changes to the current attribution rules as they do not

believe changes are necessary and would potentially pose administrative difficulties.

Commissioner O'Neill asked Mr. Moore if the Democratic Party supports a different limit for district races versus citywide races. Mr. Moore replied that an increased limit for political parties to candidates in citywide races would necessitate a corresponding increase for limits from individuals to citywide candidates.

Commission Chair Fuller asked Mr. Moore if the Democratic Party is opposed to a political party contribution limit above \$10,000. Mr. Moore responded that there is no need for a higher limit unless you are attempting to circumvent the individual contribution limit of \$500.

Commissioner Detsky-Weil asked how the Democratic Party arrived at the \$5,000 and \$10,000 figures. Mr. Moore responded that \$5,000 is "real money," and that a \$10,000 contribution would signal that it was an important race from the perspective of the political party, but these amounts are not so large that they could fund an entire race.

Barrett Tetlow with the Republican Party of San Diego County delivered a PowerPoint presentation that addressed the differences between "hard" and "soft" money raised by political parties, the administrative expenditures that must be made from hard money (or federal) accounts, and the limited nature of funding remaining to make contributions to City candidates. He submitted that the Republican Party does not believe a limit on political party contributions is justified, but that the party supports tighter attribution rules.

Commissioner O'Neill asked Mr. Tetlow about the issue raised in Professor Kousser's report concerning the polarizing effect of political parties and the tendency for political parties to move elected officials away from the ideological center and make them beholden to the party. Mr. Tetlow responded that the Republican Party typically spends money to support moderate Republicans.

Mr. Moore asked if he could also respond to Commissioner O'Neill's query. Mr. Moore acknowledged that political parties do put pressure on candidates to "toe the party line." He stated that one of the main purposes of a political party is to "enforce party discipline."

April Boling commented on attribution rules, which she believes will be very important if there is no limit on political party contributions. In lieu of the current requirement that attribution reports be filed within 6 months of a contribution, she recommended 30 calendar days. She expressed her view that all contributions, regardless of amount, should be identified on an attribution report, and questioned how the Commission could enforce the attribution requirements without this detailed disclosure. Although she supports an itemization of all donor funds including those under \$100, she

expressed her view that address and occupation/employer information are not necessary on an attribution report, but that the donors should be listed in alphabetical order. She also suggested that the Commission's Audit Manual be amended to include sample testing of political party attributions, and that the law require political parties to maintain records associated with all donations that they attribute to candidate contributions. She does not believe there is any need to limit the timeframe for how far back a party may go to attribute a donor's funds as long as there is a requirement that the party maintain and produce records to verify the original contribution.

Commission Chair Fuller asked Ms. Boling if a 30-day filing requirement for attribution reports would be difficult for treasurers. Ms. Boling replied that political parties have professional treasurers and should be sophisticated enough to submit attribution reports for the contributions they make to City candidates.

Commissioner Howatt asked Ms. Boling about her recommendation that all donor funds be itemized. She explained that if a political party is not required to identify donors under \$100 the public could receive nothing more than a statement that party complied with the attribution rules by using \$99 or less from unspecified donors.

Commissioner Detsky-Weil asked Ms. Boling about her recommendation that there be no reach-back time limit for donor attribution. Ms. Boling reiterated her view that the time limit should not matter as long as the party has records to verify the donations. She added that if the Commission decides to recommend a time limit, it should be four years and should use an anchor date such as January 1 so that the pool doesn't shift every time it makes a contribution.

Ms. Fulhorst asked Ms. Boling if she believes the political parties should have to demonstrate that they had sufficient conforming cash on hand to fund a contribution to a City candidate. Ms. Boling replied that she does not think this is an issue and reiterated that the parties can demonstrate compliance by verifying donor contributions. Ms. Fulhorst noted that it will be important for the Commission to consider whether donor identification is sufficient even if campaign disclosure statements indicate that a political party does not have enough contributions from individuals in amounts of \$500 or less in its account to fund a particular contribution to a City candidate.

Simon Mayeski with Common Cause commented on the specific decision points outlined in the draft amendments prepared by staff. He expressed his view that attribution reports should be filed within 10 days because the political parties should have this information at the time they make contributions to City candidates. He indicated that he supports disclosure of all donor funds on an attribution report, including those under \$100. With respect to the reach back time frame, he submitted that political parties should comply with the 12-month pre-election fundraising time limits

applicable to City candidates. Finally, with respect to a new contribution limit, he indicated that no limit is a viable option provided that complete disclosure rules are implemented. If the Commission is inclined to recommend a limit, he suggested \$7,500 would be appropriate.

Director Fulhorst presented the decision points outlined in the draft Municipal Code amendments prepared by staff.

Commissioner Howatt commented that political party contributions are antithetical to non-partisan elections.

Commissioner Biddle expressed agreement with Commissioner Howatt's view. He submitted that injecting unlimited contributions from political parties would undermine the foundation of the City's campaign laws and give political parties an outsized role in elections. He added that if political parties are permitted to give unlimited contributions to City candidates, then the individual \$500 limit should be reconsidered.

Motion: Recommend no limit for contributions from political parties to City candidates
Moved/Seconded: Wetzler/Fuller
Vote: Failed 5-1 (Fuller voted yes)
Excused: Cochran

Motion: Recommend same limit for political party contributions to district and citywide candidates
Moved/Seconded: Wetzler/Detsky-Weil
Vote: Failed 3-3 (Biddle, Howatt, and O'Neill voted nay)
Excused: Cochran

Motion: Recommend limits of \$5,000/\$10,000 for contributions from political parties to district/citywide candidates
Moved/Seconded: Biddle/Fuller
Vote: Failed 4-2 (Biddle and O'Neill voted yes)
Excused: Cochran

The Commissioners generally concurred that the issue of a specific limit for political party contributions should be continued to the next Commission meeting.

Motion: Recommend attribution of all donor funds regardless of amount
Moved/Seconded: O'Neill/Detsky-Weil
Vote: Carried unanimously
Excused: Cochran

Motion: Clarify that funds attributed to one party contribution may not later be attributed to another party contribution
Moved/Seconded: O'Neill/Wetzler
Vote: Carried unanimously
Excused: Cochran

Motion: Recommend elimination of donor addresses in attribution reports
Moved/Seconded: O'Neill/Biddle
Vote: Carried unanimously
Excused: Cochran

With respect to the issue of filing deadlines for attribution reports, Ms. Boling commented that the staff recommendation that they coincide with candidate pre-election filing deadlines would be onerous for political treasurers. She added that a 10-day filing requirement was reasonable if donor addresses and occupations are not required.

Motion: Recommend attribution reports be filed within 10 days of a candidate contribution unless the contribution is made within 10 days of an election, in which case the attribution report must be filed within 48 hours.
Moved/Seconded: O'Neill/Howatt
Vote: Carried unanimously
Excused: Cochran

The Commissioners generally concurred that the reach back time limit for contributions should be continued to the next meeting and discussed at the same time as a specific limit for political party contributions.

Item 9: Discussion and Possible Action Concerning Additional Proposed Amendments to Campaign Laws

April Boling proposed the following amendments to the City's campaign laws:

- (1) Eliminate the requirement that contributions be returned if not deposited within 30 business days.
- (2) Increase the time period to obtain contributor occupation and employer information from 30 business days to 60 calendar days to coincide with state law.
- (3) Change the font size for "paid for by" disclosures from 12-point type to 6-point type to coincide with the state's sender identification law.
- (4) Eliminate the "paid for by" requirement on campaign literature not sent via mail.
- (5) Eliminate the requirement that solicitations contain a warning that individual contributors may not be reimbursed by an organization.

- (6) Lift the ban on contributions from sole proprietorships to coincide with federal law that treats sole proprietorships as individuals.
- (7) Recommend a higher contribution limit for candidates in citywide races.
- (8) Eliminate the third pre-election filing for City candidates.

William Moore commented that he has been advised by political treasurers that the third pre-election filing is burdensome.

Item 10: Proposed Amendments to Ethics Commission Operating Policies

Due to the lateness of the hour, this item was continued to the next Commission meeting.

Item 11: Adjourn to Closed Session.

Commission Chair Fuller adjourned the meeting to closed session at approximately 7:55 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 Fuller called the meeting back into open session at approximately 8:10 p.m.

Reporting Results of Closed Session Meeting of April 12, 2012

Ms. Cameron reported the results of the closed session meeting of March 8, 2012:

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

Case No. 2012-15 - In Re: Alleged Acceptance of Contribution In Excess of Limit and Contribution from Organization

Motion:	Dismiss
Moved/Seconded:	Howatt/Biddle
Vote:	Carried 5-1 (Detsky-Weil voted nay)
Excused:	Cochran

Case No. 2012-17- In Re: Alleged Failure to Disclose Economic Interests

Motion:	Initiate Investigation
Moved/Seconded:	O'Neill/Howatt
Vote:	Carried unanimously
Excused:	Cochran

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

Item withdrawn

Item-3: Conference with Legal Counsel (1 potential matter)

San Diego Ethics Commission Audit Report: David Alvarez for Council 2010

Motion: Accept Final Audit Report
Moved/Seconded: Howatt/Detsky-Weil
Vote: Carried unanimously
Excused: Cochran

Adjournment

The meeting adjourned at approximately 8:15 p.m.

Clyde Fuller, Commission Chair
Ethics Commission

Stacey Fulhorst, Executive Director
Ethics Commission

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