



**Minutes for Meeting of
Thursday, May 10, 2012**

Item 1: Call to Order

Commission Vice Chair William Howatt called the meeting to order at 5:06 p.m.

Item 2: Roll Call

Present –Vice Chair William Howatt, Commissioners Lee Biddle, Deborah Cochran, John O’Neill, and Bud Wetzler

(Commissioner Detsky-Weil arrived at 5:10 p.m.)

Excused – Commission Chair Fuller

Staff – Executive Director Stacey Fulhorst, General Counsel Christina Cameron, Senior Investigator Lauri Davis, Auditor Rosalba Gomez, and Administrative Aide Jennifer Duarte

Item 3: Approval of Commission Minutes

Approval of Ethics Commission Minutes of April 20, 2012

Motion: Approve
Moved/Seconded: O’Neill/Biddle
Vote: Carried Unanimously
Abstained: Cochran
Excused: Fuller, Detsky-Weil

Item 4: Non-Agenda Public Comment

None

Item 5: Commissioner Comment

None

Item 6: Executive Director Comment

Director Fulhorst congratulated Commissioner Cochran on her recent wedding. She also introduced Jennifer Duarte, the Commission's new Administrative Aide, and welcomed her to the Commission.

Item 7: General Counsel Comment

None

Item 8: Appointment of Ad Hoc Committee to Nominate Commission Officers at Commission Meeting on June 14, 2012

Motion: Approve Commissioners Wetzler & Detsky-Weil to Serve on Ad Hoc Committee
Moved/Seconded: O'Neill/Cochran
Vote: Carried Unanimously
Excused: Fuller, Detsky-Weil

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

Director Fulhorst reminded the Commission that professional campaign treasurer April Boling has asked the Commission to consider the following additional amendments to the City's campaign laws (unrelated to the recent *Thalheimer* litigation):

- (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.

She provided an overview of the staff input included in her memo dated May 7, 2012. In addition, she pointed out that Ms. Boling's second proposal would not be feasible unless the Commission also extended the 30 business day time period for the deposit of contributions since committees are not permitted to deposit contributions until they have the contributors' occupation and employer information.

In addition to Ms. Boling's suggestions, Director Fulhorst explained that the staff would like the Commission to consider the following amendments:

- Permit candidates to amend Schedule F (accrued expenses) on their third pre-election filings without penalty in order to address difficulties reported by campaign treasurers.
- Consider extending the third pre-election filing requirement to committees primarily formed to support City candidates and City general purpose recipient committees (which support City candidates and measures).
- Modify the "paid for by" disclosure requirement for yard signs from 12 point type to 5% of the sign height to coincide with state law.
- Modify the provisions concerning billboard advertising to include other large forms of advertising (this will enable staff to give advice to candidates and committees concerning the disclosures required on various types and sizes of political signs).
- Consider expanding the \$50,000 donor identification required on advertisements supporting or opposing City ballot measures to advertisements that support or oppose City candidates to ensure that a disclosure requirement is in place for the 2014 election cycle in the event that AB 1648 is not adopted.
- Consider amending the Lobbying Ordinance to expand the requirements concerning the disclosure of campaign contributions and fundraising activities to committees primarily formed to support City candidates. In addition, Ms. Fulhorst noted that the City Clerk plans to ask the Commission to recommend elimination of paper filings for lobbyists.

In response to an inquiry from Vice Chair Howatt, Ms. Cameron stated that she would like to research the City's Vehicle Code to ensure that any Commission proposals are consistent with other City laws.

Simon Mayeski with California Common Cause expressed support for Ms. Boling's proposal numbers 1 and 6. He pointed out that federal tax laws treat single limited liability companies the same as sole proprietorships, and suggested the staff research this issue. With respect to her other suggestions, he commented that he supports keeping the 12 point type disclosure requirement as it is important for the public to read the disclosures.

In addition, he supports maintaining the disclosure requirements on all types of campaign literature because the public wants to know who is paying for a communication. He also supports keeping the reimbursement warning as it is important guidance for citizens. With respect to the third pre-election filing, he noted that the media has covered the contributions disclosed on this filing so the public has benefited from the filing requirement. Additionally, he expressed support for allowing candidates 10 days to amend Schedule F on the third pre-election filing, as well as the expansion of the filing requirement to City primarily formed and general purpose committees. He expressed support for the staff recommendation concerning billboards and suggested applying the disclosure requirement to all “public” advertisements. He advised the Commission that many parties are working to support the passage of AB 1648 but agreed that the City should have a backup disclosure provision in the event they are not successful. Finally, Mr. Mayeski expressed support for the staff suggestions concerning amendments to the lobbying laws concerning the disclosure of contributions and fundraising activities.

Commissioner Biddle noted that he had to leave the meeting and wanted the Commissioners to know that he is in favor of lifting the ban on contributions from sole proprietorships and allowing candidates time to amend Schedule F on their third pre-election filings. He also expressed his support for maintaining the 12-point type requirement for disclosures on campaign literature.

(Commissioner Biddle left the meeting at approximately 5:45 p.m.)

Commissioner Detsky-Weil expressed support for the billboard proposal and suggested the Commission consider exempting hand-held signs. She also noted that she works with graphic artists who advised her they would never print a disclosure on a type size smaller than 12 point font.

Commissioner O’Neill indicated he would like the Commission to revisit the issue of a larger individual contribution limit for citywide candidates. He stated that he did not agree with Professor Kousser’s view that citywide candidates have a larger pool of contributors and therefore don’t need a larger individual limit. Instead, he submitted that a contributor’s ability to meaningfully participate is diminished when considering the total cost to run a citywide campaign.

The Commissioners expressed general support for future consideration of the following issues:

- eliminating the requirement that contributions must be returned if not deposited within 30 business days;
- modifying the 30 business day requirements to reflect the equivalent in calendar days;

- lifting the ban on contributions from sole proprietorships;
- considering a higher individual contribution limit for citywide candidates;
- allowing candidates time to amend Schedule F on their third pre-election disclosure statements;
- extending the third pre-election filing requirements to primarily formed and general purpose committees;
- expanding the billboard disclosure requirement to apply to all large forms of public advertising;
- expanding the \$50,000 donor identification rules to candidate advertisements; and
- amending the lobbying laws to expand the disclosure of contributions and fundraising activities to include committees primarily formed to support City candidates.

Ms. Fulhorst advised the Commission that staff will conduct additional research into these issues and report back at a future meeting.

Item 10: Proposed Amendments to Ethics Commission Operating Policies

Director Fulhorst reminded the Commission that this item was continued from the meeting on March 8, 2012. She stated that the Commission previously received a letter from Marianne Greene requesting the removal of a stipulation from the Commission’s website. Ms. Greene was not the subject of the stipulation but happened to share the same name as the respondent. In response to her request, the Commission agreed to make an exception in its policies and remove the stipulation from its website. In her letter, Ms. Greene also questioned why the Commission needs to keep stipulations on its website indefinitely. In response, the Commissioners indicated that they would like to revisit the policy.

Ms. Fulhorst noted that the “Materials on Ethics Commission Website” provisions in the Commission’s Operating Policies were added by the Commission in September 2010 to codify the informal policy already in place. At that time, the Commission considered the following:

- A lobbyist previously fined by the Commission suggested that removing stipulations from the website after a specific period of time was appropriate in light of the professional harm it could cause for respondents.
- The stipulations serve an educational purpose by putting people on notice that violations will result in fines levied by Commission.
- The stipulations enable potential respondents to look at other fines for similar violations to ensure that they are being treated fairly.

- Other city ethics commissions and the State's Fair Political Practices Commission leave their stipulations on their websites indefinitely.

Commissioner Wetzler recommended that the Commission maintain its current policy and consider exceptions on a case-by-case basis. Commissioner Cochran concurred and pointed out that the current policy promotes transparency.

Vice Chair Howatt noted that no motion was necessary because none of the Commissioners expressed a desire to modify the current policy.

Item 11: Presentation of Final Audit Report Regarding the Howard Wayne for Council 2012 Committee

Motion: Accept Final Audit Report
 Moved/Seconded: O'Neill/Wetzler
 Vote: Unanimous
 Excused: Fuller, Biddle

Item 12: Adjourn to Closed Session.

Commission Vice Chair Howatt adjourned the meeting to closed session at approximately 6:10 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 Vice Chair Howatt called the meeting back into open session at approximately 6:35 p.m.

Reporting Results of Closed Session Meeting of May 10, 2012

Ms. Cameron reported the results of the closed session meeting of May 10, 2012:

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

Case No. 2012-18 - In Re: Alleged Failure to Include Proper Identification Disclosure on Mass Campaign Literature

Motion: Initiate Investigation
 Moved/Seconded: Detsky-Weil/O'Neill
 Vote: Carried Unanimously
 Excused: Fuller, Biddle

Item-2: Conference with Legal Counsel (6 potential matters)

Case No. 2012-08 - Alleged Failure to File Campaign Statements

Motion: Dismiss
Moved/Seconded: O'Neill/Detsky-Weil
Vote: Carried Unanimously
Excused: Fuller, Biddle

Case No. 2012-09 - Alleged Failure to File Campaign Statements

Motion: Dismiss
Moved/Seconded: Cochran/O'Neill
Vote: Carried Unanimously
Excused: Fuller, Biddle

Case No. 2012-10 - Alleged Failure to File Campaign Statements

Motion: Dismiss
Moved/Seconded: O'Neill/Wetzler
Vote: Carried Unanimously
Excused: Fuller, Biddle

Case No. 2012-12 - Alleged Failure to Timely File Lobbyist Quarterly Disclosure Report

Motion: Dismiss
Moved/Seconded: Wetzler/Detsky-Weil
Vote: Carried Unanimously
Excused: Fuller, Biddle

Case No. 2012-13 - Alleged Failure to Timely File Lobbyist Quarterly Disclosure Report

Motion: Dismiss
Moved/Seconded: Detsky-Weil/Cochran
Vote: Carried Unanimously
Excused: Fuller, Biddle

Case No. 2012-14 – In Re: Marston + Marston, Inc. - Alleged Failure to Timely File Lobbyist Quarterly Disclosure Report

Motion: Approve Stipulation
Moved/Seconded: O'Neill/Wetzler
Vote: Carried Unanimously
Excused: Fuller, Biddle

Adjournment

The meeting adjourned at approximately 6:40 p.m.

William Howatt, Jr., Commission Vice Chair
Ethics Commission

Stacey Fulhorst, Executive Director
Ethics Commission

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