

**MINUTES OF THE MEETING  
CITY OF SAN DIEGO ETHICS COMMISSION**

**August 22, 2002  
5:30 p.m.  
City Administration Building  
Council Committee Room  
202 C Street, 12<sup>th</sup> Floor**

**Agenda Item No. 1 - Call to Order.** (Time: 5:36:55 p.m.)

Chairperson Leonard called the meeting to order at 5:36 p.m.

**Agenda Item No. 2 – Roll Call.** (Time: 5:37:02 p.m.)

**Present** – Chairperson Dorothy Leonard, Vice-Chairperson Al Gaynor, Commissioners Charles La Bella, April Riel, Dorothy Smith, and Greg Vega.

**Staff** - Executive Director Charles Walker, Deputy City Attorney Rick Duvernay, Legal Assistant Steve Ross, Investigator Stacey Fulhorst, Executive Secretary DonnaLee McCalla.

**Excused** – Commissioner Lisa Foster.

**Agenda Item No. 3 – Reporting Results of Closed Session.** (Time: 5:37:10 p.m.)

Closed Session meeting of August 8, 2002:

1. The Commission approved the issuance of one Draft Administrative Complaint;
2. Approved one Stipulation;
3. Approved one matter for investigation.

Excused – Commissioner Smith.

Closed Session meeting of August 22, 2002:

1. The Commission approved the initiation of seven formal investigations.

Excused – Commissioner Foster.

**Agenda Item No. 4 - Approval of Commission Minutes.**

(Time: 5:37:48 p.m.)

Speaker Melvin Shapiro:

1. Made a public records request for the recording of the July 25, 2002 Commission meeting;
2. Corrected the interpretation of his request under Item 4 of the July 25, 2002 Commission minutes. He asked that the minutes be amended to include Mr. Walker's response to his question, and have the minutes reflect exactly what he requested, which was for an amendment to the Minutes of June 27, 2002.

Chairperson Leonard apologized that the Commission experienced a problem with the recording equipment at the meeting of July 25, 2002; therefore, no recording of this meeting is available.

MOTION TO APPROVE COMMISSION MINUTES OF JULY 25, 2002.

Moved/Seconded: LaBella/Gaynor

Vote: Unanimous approval

Excused: Foster

**Agenda Item No. 5 - Non-Agenda Comment.**

(Time: 5:42:12 p.m.)

Speaker Ken Loch stated that he represents the Genesis of the Next Renaissance and his purpose regarding the understanding of a mind-body relationship.

**Agenda Item No. 6 - Commissioner Comment.**

(Time: 5:44:35 p.m.)

Chairperson Leonard stated that on this date, a year ago, the Commission was sworn into office and held its first meeting. The Annual Report will not be submitted until after the first of the year which will cover the last part of 2001 and all of 2002. She commended the Commission and staff for their hours committed in getting the Commission to where it is today.

**Agenda Item No. 7 – Executive Directors Comment.**

(Time: 5:45:20 p.m.)

Executive Director Charles Walker reported on the following:

1. The Commission entered into a Stipulation with the Lincoln Club with regards to independent expenditures. The Stipulation is posted on the Commission's website.

2. Two formal opinions are posted on the Commission's website and a third opinion will be posted next week.
3. The Education Subcommittee continues to meet with Dr. Dunn to develop the Ethics Training Program meeting with groups that fall under Commission's target audience.
4. Since the Enforcement Procedures effective date, the Commission has processed 46 complaints. Currently 17 are active.
5. Two speaking engagements on August 23, 2002: 1) the Executive Secretaries Professional Development Day; and 2) the Labor Advisory Committee with Mr. Duvernay on the Ethics Ordinance.

**Agenda Item No. 8 – Deputy City Attorney Comment.** (Time: 5:48:00 p.m.)

Deputy City Attorney Duvernay added that the third Opinion is an informal opinion submitted by April Boling addressing hypothetical questions wherein you have two separate independent expenditure committees involved in supporting or opposing candidates in city elections. Little has been published on the issue, and it is timely that this comes up before the fall election. The Opinion will be forwarded to the Commission for review.

**Agenda Item No. 9 - Proposed Audit Manual.** (Time: 5:49:29 p.m.)

No requests for hearing were received. Mr. Walker reported that there was little response. This item will continue to the next Agenda of September 12, 2002, encouraging attendance or comments be received in writing.

Ms. Leonard proposed that the Ad-Hoc Audit Subcommittee review any comments received. She voiced a concern that the Commission may not have the finances to conduct nine audits, and asked that the Subcommittee look into other methods of fine tuning the process of selection. She added that she would like to see three audits be conducted to determine how well they go, and how it affects the budget.

Commissioner Riel responded that the audit manual does not specify that nine audits will actually be conducted, but that there will be nine distinct categories from which to select from.

Ms. Leonard suggested that the procedures be developed so that there become a maximum number of audits conducted.

**Agenda Item No. 10 – Proposed Council Policy Amendment.** (Time: 5:53:05 p.m.)

Executive Director Charlie Walker reported that the initial modification to the council policy has been changed to exclude City Clerk's office being instrumental in facilitating the training. This task may create the need for additional clerical staff, and concluded that the Commission should be the primary filing entity.

Chairperson Leonard stated that the Commission is scheduled to go before the Rules Committee on September 11, 2002. The Mayor wanted this item returned to the Rules Committee before proceeding to City Council to present the Education Program and Council Policy at that same time.

A volunteer commissioner from another commission submitted proposed changes in an area that is covered under the Ethics Ordinance. Ms. Leonard reiterated that this process is an update to a policy that has already been in place by adding the training portion pursuant to Rules Committee recommendation that it become mandatory. She directed staff to respond to the submittal with an explanation for it not being accepted.

Ms. Leonard stated that the purpose of the changes is to acknowledge in the Council Policy that there is an Ethics Commission, an Ethics Ordinance, and to bring the Council Policy up-to-date. The substantive language being added is the section beginning with Ethics Training.

Public Testimony

Ms. Leonard acknowledged Mr. Varnadore's letter and that a response was sent back with a copy of the Ethics Ordinance. She represented that some of Mr. Varnadore's comments were incorporated into the present draft.

Speaker Jim Varnadore commented the following:

1. Prior to the Council Policy going before the Rules Committee, that the Commission make an effort to widely redistribute to the communities and other affected agencies for a second opportunity for comments.
2. He suggested that the whole business of improper influence should not be confined to electoral politics and money.

Ms. Leonard responded that Items 1-8 in Mr. Varnadore's letter are all subject to either State law or the Ethics Ordinance. This policy is not meant to supercede the Ethics Ordinance, but is a council policy that sets guidelines also for classified employees who are not covered by the ordinance. DCA Duvernay concurred.

Speaker Melvin Shapiro requested clarification that when the policy says, "City of San Diego," does that include all the other agencies that are appointed by the City Council. (i.e., CCDC and Housing Commission)

Ms. Leonard responded that under Ethics Training, it lists everyone who is subject to the Ethics Ordinance, including classified employees who are subject to the Policy where they are not subject to the ordinance. In answer to the question: yes, with the exception of the Port Commission.

MOTION TO RECOMMEND THE AMENDMENT TO COUNCIL POLICY 000-04

Moved/Seconded: Smith/Riel

Vote: Unanimously approved

Excused: Commissioner Foster

**Agenda Item No. 11 – Ad-Hoc Revolving Door Provision Subcommittee.**

(Time: 6:11:25)

The Ad-Hoc Revolving Door Provision Subcommittee met on August 6, 2002. Vice-Chairperson Gaynor presented the majority report and Commissioner Riel presented the minority report.

ISSUE: Whether or not the Ethics Commission, at this time, should present to the City Council the original Ethics Ordinance Revolving Door provision and arguments in support which were previously denied by the City Council and to incorporate any modifications.

The Majority reported that the Commission, its staff, and legal counsel are presently engaged in:

1. A full effort to prepare, present, and obtain approval of the City Council's audit procedures, extensive educational plans and its implementation, and the exercise of its statutory duty.
2. Review and recommend amendments to the Election Campaign Control Ordinance.
3. It appears that the Commission would be unable to appear before the Rules Committee and City Council within the next several months in view of the schedules of those bodies and the Commission's immediate priority.

For these reasons, the majority votes in the negative with respect to presenting anything to the City Council on this issue at this time. Supported by Chairperson Leonard, Vice-Chairperson Gaynor, Executive Director Charlie Walker, Deputy City Attorney Rick Duvernay.

The Minority reported that part of the Commission's Mission Statement is to instill trust and confidence in the public. It is felt that this mission is not being fulfilled by having a 1-year Revolving Door Provision.

Under Section 2, page 2, states, "This provision would only apply to very few people." It only takes one person to affect the public's trust in City government.

1. Reasons for moving forward:
  - a. Timing;
  - b. No need to re-educate the majority of the City Council.
  - c. The current Revolving Door provision needs to be fine tuned. Proposed improvements drafted by DCA Duvernay have not been seen by the City Council which includes a key element that relates to the definition of "work on a particular project." The definition currently states: "substantially by rendering a decision, approval, or dismissal, etc. . . ." This definition needs more refining. Ms. Riel read from the proposed improvements that are very specific which will essentially refine the definition.
  - d. The Commission will have a new approach before going before the City Council. It is important that different-case scenarios be presented.

In conclusion, the Commission needs to be proactive, not reactive. We should not wait for something to happen before we sit down and reevaluate it, and go before City Council. It would be helpful if a committee continues working on this issue. Supported by Commissioner Riel.

**MOTION TO ACCEPT THE RECOMMENDATION OF THE MINORITY REPORT TO RETURN THE REVOLVING DOOR PROVISION BACK TO RULES COMMITTEE AND COUNCIL AT THIS TIME.**

Moved/Seconded: Vega/LaBella

Vote: Yeas, Vega, Riel, LaBella

Nays, Smith, Gaynor, Leonard

Excused: Foster

The motion failed for lack of four affirmative votes. This matter will be trailed until a full commission will be present.

**Agenda Item No. 12 – Adjournment.**

(Time: 6:53:20 p.m.)

Chairperson Leonard adjourned the meeting at 6:53 p.m.

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Dorothy Leonard, Chairperson  
Ethics Commission

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DonnaLee McCalla, Executive Secretary  
Ethics Commission

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