



**Minutes for Meeting of
Thursday, January 13, 2005**

Item-1: Call to Order

Chairwoman Dorothy Smith called the meeting to order at 5:00 p.m.

Item-2: Roll Call

Present – Chairwoman Dorothy L .W. Smith, Vice Chairwoman Dorothy Leonard, Commissioners Charles H. Dick, Jr., April Riel, Karen Thomas-Stefano, Greg Vega, and Larry S. Westfall

Staff – Executive Director Stacey Fulhorst, General Counsel Cristie C. McGuire, Senior Investigator Lauri Davis, and Executive Secretary Janet MacFarlane

Item-3: Approval of Commission Minutes

Approval of October 28, 2004, Ethics Commission Minutes

Motion: Approve Minutes of October 28, 2004

Moved/Seconded: Leonard/Westfall

Vote: Unanimous

Abstained: Riel/Thomas-Stefano/Vega

Approval of November 18, 2004, Ethics Commission Minutes

Motion: Approve Minutes of November 18, 2004

Moved/Seconded: Vega/Thomas-Stefano

Vote: Unanimous

Abstained: Dick

Approval of December 16, 2004, Ethics Commission Minutes

Motion: Approve Minutes of December 16, 2004

Moved/Seconded: Dick/Riel

Vote: Unanimous

Approval of December 28, 2004, Ethics Commission Minutes

Motion: Approve Minutes of December 28, 2004

Moved/Seconded: Leonard/Vega

Vote: Unanimous

Abstained: Riel

Item-4: Non-Agenda Public Comment

Mr. Mel Shapiro noted that the report on the proposed amendments to the Lobbying Ordinance had been issued the same day of the meeting. He felt reports should be distributed a few days prior to the meeting in order for the public to be able to appropriately comment on the agenda items. He further recommended written reports be provided on all agenda items.

Item-5: Commissioner Comment

Chairwoman Smith welcomed General Counsel Cristie McGuire to the Ethics Commission.

Item-6: Executive Director Comment

1. The issue of legal defense funds will be docketed for Commission discussion at its February meeting.
2. The on-line recertification training program is tentatively scheduled for completion at the end of January. The Commission will be asked to test the new system at that time.
3. Live ethics training sessions are currently being offered to Elected Officials and staff.
4. Staff priorities:
 - A. Audit Manual
 - B. Housekeeping amendments to the enabling ordinance
 - C. Review of new provisions of ECCO
 - D. Lobbying Ordinance

Chairwoman Smith reported that Vice Chairwoman Leonard agreed to replace her on the Audit Ad Hoc Subcommittee.

Item-7 Deputy City Attorney Comment

Cristie McGuire stated she was pleased and honored to serve as General Counsel to the Ethics Commission.

Item-8 Issuance of Advice Letters

Chairwoman Smith reported a concern about the issuance of advice letters. She asked whether the Ethics Commission should weigh in before an advice letter is issued. General discussion followed.

The Commission took no action on this item.

Item-9: Closed Session Reporting Practices

Executive Director Fulhorst reported a recent situation in which a complainant was able to report that an investigation had been initiated by the Ethics Commission by the way in which the Commission reports the results of closed session.

General Counsel indicated she would review the closed session reporting procedures and the applicable requirements under the Brown Act.

The Commission took no action on this item.

Item-10: Proposed Amendments to Lobbying Ordinance

Mel Shapiro asked about the status of the committee that was to review the Ethics Commission conflict of interest code. Mr. Shapiro also noted that the public forum would be scheduled in March to discuss the lobbying ordinance. He recommended that lobbyists be excluded from the ad hoc committee.

In response to Mr. Shapiro's question, Ms. Fulhorst explained that an ad hoc committee had been formed to consider a Commission policy regarding the representation of private clients by Ethics Commissioners. She added that this matter has not yet been brought back to the Commission for discussion.

Director Fulhorst presented a memorandum dated January 13, 2005, regarding proposed topics for discussion at the public forum.

Item-11: Council Policy 300-11

Director Fulhorst noted an apparent inconsistency between Council Policy 300-11 and the post-employment provisions in the Ethics Ordinance.

By consensus, the Commission directed staff to prepare a memorandum to the Mayor and City Council advising them about this situation.

Item-12: Commission Legislative Calendar for 2005

The Commission was asked to consider amending the legislative calendar for its May 2005 meeting.

By consensus, no change was made to the Commission's legislative calendar.

Item-13: Adjournment to Closed Session

Chairwoman Smith adjourned the meeting to Closed Session at approximately 6:30 p.m. She 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

Chairwoman Smith called the meeting back into open session at approximately 7:15 p.m.

Reporting Results of Closed Session Meeting of January 13, 2005

Chairwoman Smith reported the results of the Closed Session Meeting of January 13, 2005.

Item 1 – Conference with Legal Counsel (3 Potential Matters)

Case No. 2004-65 – In re: Alleged Misuse of City Position

Motion: Recuse Commissioners Dick and Vega
Moved/Seconded
Vote: Unanimous
Abstained: Dick/Vega

Motion: Initiate Investigation
Moved/Seconded
Vote: Unanimous
Recused: Dick/Vega

Case No. 2004-67 – In re: Alleged Contribution in Excess of Limit and Alleged Violation of Prohibition on Contribution from Organization

Motion: Initiate Investigation
Moved/Seconded
Vote: Unanimous

Case No. 2004-68 – In re: Alleged Failure to Disclose Economic Interest and Failure to Disqualify from Municipal Decision Affecting Economic Interest

Motion: Initiate Investigation
Moved/Seconded
Vote: Unanimous

Item 2 – Conference with Legal Counsel (2 Potential Matters)

Case No. 2004-61 – In re: Alleged Failure to Obtain Required Contributor Information

Motion: Dismissed
Moved/Seconded
Vote: Unanimous

Case No. 2004-62 – In re: Alleged Failure to Properly Identify “Paid for By” on Mass Mailer

No reportable action.

Item 3 - Personnel Matter – Evaluation of Performance

Accept evaluation of Executive Director and approve both a bonus and merit pay increase.

Adjournment

The meeting adjourned at approximately 7:20 p.m.

Dorothy L. W. Smith, Chairwoman
Ethics Commission

Janet MacFarlane, Executive Secretary
Ethics Commission

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