



**Minutes for Meeting of Thursday,  
November 10, 2005**

**Item-1 Call to Order**

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

**Item-2: Roll Call**

Present – Chairwoman Dorothy Leonard, Vice-Chair Larry Westfall, Commissioners Lee Biddle, Gil Cabrera, and Karen Thomas-Stefano

Excused – Commissioner Charles H. Dick, Jr.

Staff – Executive Director Stacey Fulhorst, Senior Investigator Lauri Davis, General Counsel Cristie C. McGuire, Program Manager Steve Ross, Financial Investigator Dee Dee Alari, and Executive Secretary Katherine Hunt

**Item-3: Approval of Commission Minutes**

**Approval of October 13, 2005, Ethics Commission Minutes**

Motion: Approve

Moved/Seconded: Biddle/Cabrera

Vote: Unanimous

Abstained: Stefano

Excused: Dick

**Item-4: Non-Agenda Public Comment**

Melvin Shapiro commented on the frequency of Ethics Commission meetings and questioned why the Ethics Commission only meets once a month. He also alleged

the Commission handled Ethics Commission matters through secret ad hoc committees.

Chairwoman Leonard responded the only current ad hoc committee is the one that handles the performance evaluation for the Executive Director and this is permitted by law. She added in the beginning the Commission met twice a month for the purpose of drafting ethics ordinances and now only need to meet once a month.

**Item-5: Commissioner Comment**

None

**Item-6: Executive Director Comment**

None

**Item-7: General Counsel Comment**

None

**Item-8: Proposed Amendments to Municipal Lobbying Ordinance**

Chairwoman Leonard commented that this item has been on the Commission's legislative agenda for four years and the timing of this workshop is not related to the recent Union Tribune article regarding lobbying.

She indicated that she had received a request to continue this item and asked if any Commissioner would like to make a motion to continue the item to another date. No motion was made.

Director Fulhorst presented the staff report and explained that this is the first of many meetings during which the Commission would like input from the public and regulated community. In addition to the staff report, she mentioned that the other matters the Commission may want to consider are:

- Require registered lobbyists to disclose the names of city officials they've met with and the dates they met;
- Prohibit registered lobbyist from making campaign contributions;
- Require registered lobbyists to disclose campaign fundraising activities for City Officials as they do in Los Angeles if the amount exceeds a certain threshold.

Richard Ledford commented regarding the recommendations set forth in his letter to the Commission.

Melvin Shapiro provided recommendations as outlined in his letter to the Commission.

Director Fulhorst commented that the staff memo was prepared in January 2005 because the Commission had planned to docket this item for discussion by March 2005. However, demands on the staff resulting from the recent special elections prevented the docketing of this issue earlier.

Regarding the issue of attorney lobbyists raised by Mr. Shapiro's letter, Director Fulhorst explained that it is her understanding that the attorney-client privilege does not prevent attorneys from disclosing their clients on lobbyist disclosure reports.

Mike McDade offered the following recommendations for the Commission's consideration:

- The Commission should review the disclosure practices of the Coastal Commission and also consider eliminating the threshold determination for registration purposes (require lobbyists who receive \$1 or more to register).
- Individuals who represent themselves without receiving compensation have the right to practice free speech and should be exempt from registration.
- Registration fees should not be raised except as needed for cost recovery to the City.
- He agreed with the staff recommendation regarding the disclosure of instances in which lobbyists serve as intermediaries for gifts.
- With regard to the proposal that lobbyists disclose fundraising activities, he suggested that this provision would have to be carefully worded so as to not conflict with individual rights.

Michel Anderson suggested the Commission consider the following recommendations:

- Implement a gag order for the City Council on certain matters to prevent them from communicating with lobbyists in order to remove any undue influence.
- Place the onus on public officials by requiring them to disclose the lobbyists they meet with.
- Prohibit lobbyist from contributing to election campaigns.
- Recommended a zero amount for the threshold determination.
- Lobbyist employers should be required to register.
- Registration Fees should not be raised except as needed for cost recovery.
- Public officials should not be allowed to accept any gifts from lobbyists.
- Lobbyists should not be allowed to engage in campaign fundraising, and fundraisers should be registered like lobbyists.
- There should be no exceptions to lobbying regulations. Everyone should be required to register including the community planning groups.

He also commented that he believes the current ordinance is unclear regarding disclosure reports and the obligation to register clients when there isn't a municipal decision pending.

Commissioner Westfall asked which jurisdictions currently use the gag rule and how it works.

Anderson responded that the County of San Diego currently uses it for information technology requests for proposals. He explained the gag order goes into effect once the County receives the proposals and its purpose is to prevent any political influence from affecting the process.

Otto Emme recommended that meetings with city officials include staff members, that registration fees be increased, and that environmental groups be required to register as lobbyists.

Simon Mayeski and Alberto Zevallos from California Common Cause commented regarding their recommendations as outlined in a letter distributed to the Commission.

Director Fulhorst mentioned that the City Clerk's Office will soon have online filing for lobbyist registration and disclosure forms.

Chairwoman Leonard questioned what the plan of action was for proceeding with any proposed changes to the Lobbying Ordinance.

Director Fulhorst advised that staff will do additional research and will report back to the Commission regarding input received at the meeting today. She added that future meetings will also include public comment on this item, and that she anticipates that by January ideas will be more defined for proposed changes to the ordinance.

Commissioner Cabrera questioned what the practice was in other jurisdictions regarding requiring officials who are lobbied to register.

Director Fulhorst pointed out that most officials keep good records and calendars. However, she advised that staff will be researching how the Coastal Commission operates with regard to this practice. She added that working notebooks will be provided for all the Commissioners and will include copies of other lobbying ordinances, letters, research results and all paperwork that pertains to this item along with the City's current disclosure form as well as those used in other jurisdictions.

Commissioner Cabrera commented on proposed fee increases and recommended that the Commission receive additional public comment at future meetings. He asked staff to research what fees would be required to recover administrative costs, and also to find out from the regulated community what fees would be burdensome.

Chairwoman Leonard pointed out that requiring volunteers such as planning group chairs to register as lobbyists would greatly increase the workload for the City Clerk's Office.

Commissioner Biddle suggested that the ordinance should require people to register who currently do not.

Chairwoman Leonard suggested the Commission keep in mind what the purpose of the lobbying ordinance is as they proceed with considering proposed changes. She asked staff to obtain copies of ordinances from other jurisdictions for the next meeting.

#### **Item-9: Proposed Amendments to Campaign Control Ordinance**

Director Fulhorst reported on the Rules Committee recommendation to forward the proposed amendments to Council for approval with several minor revisions. She advised the primary reason for suggesting changes to the ordinance was to add an Electioneering Communications provision and the Rules Committee approved this provision but changed the time period from 60 days to 90 days before a City election.

The Rules Committee also asked for modifications regarding the telephone communications provision. In particular, the members objected to the "paid for by" disclosure by campaign volunteers, and asked the Commission staff to prepare an alternative proposal for volunteer workers. After considering this direction, staff found that defining a volunteer as an unpaid worker was problematic because volunteers typically receive gifts and food from a campaign. As a result, Director Fulhorst recommended that the telephone communications provision require all callers (paid and volunteer) to say that they are "calling on behalf of" a particular candidate or committee, rather than the "paid for by" disclosure. In the alternative, Director Fulhorst suggested that the ordinance include a definition of volunteer as an individual who does not receive more than \$25 in gifts and food.

Motion: Recommend changes to telephone communications provision to require an "on behalf of" disclosure for all callers (paid and volunteer)

Moved/Seconded: Cabrera/Biddle

Vote: Unanimous

Excused: Dick

**Item-10: Adjourn to Closed Session**

Chairwoman Leonard adjourned the meeting to Closed Session at approximately 6:36 p.m.

**Reporting Results of Closed Session**

Chairwoman Leonard reported the results of the Closed Session meeting of November 10, 2005

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

**Case No. 2005-35 – Alleged Influencing of Municipal Decisions Concerning Interests of Potential Future Employer**

Motion: Dismiss  
Moved/Seconded  
Vote: Unanimous  
Excused: Dick

**Case No. 2005-65 – Alleged Failure to File Campaign Statements**

Motion: Dismiss  
Moved/Seconded  
Vote: Unanimous  
Excused: Dick

**Case No. 2005-66 – Alleged Violation of Contribution Limits**

Motion: Initiate Investigation  
Moved/Seconded  
Vote: Unanimous  
Excused: Dick

**Case No. 2005-67 – Alleged Failure to Properly Disclose Campaign Activities**

Motion: Initiate Investigation  
Moved/Seconded  
Vote: Unanimous  
Excused: Dick

**Case No. 2005-69 – Alleged Violation of Contribution Limits and Failure to Properly Identify “Paid for By” on Campaign Advertisements**

Motion: Initiate Investigation  
Moved/Seconded  
Vote: Unanimous  
Excused: Dick

**Item 2: Conference with Legal Counsel (9 potential matters)**

**Case No. 2004-50 – Alleged Disclosure of Confidential Information**

Motion: Dismiss  
Moved/Seconded  
Vote: Unanimous  
Excused: Dick

**Case No. 2004-58 – Alleged Contribution in Excess of Limit**

Motion: Dismiss  
Moved/Seconded  
Vote: 4/1 Westfall voted nay.  
Excused: Dick

**Case No. 2004-66 – Alleged Failure to File Required Campaign Disclosure Statements**

Motion: Dismiss  
Moved/Seconded  
Vote: Unanimous  
Excused: Dick

**Case No. 2005-15 – Alleged Failure to Pay Vendor within Requisite Time Period**

Motion: Dismiss  
Moved/Seconded  
Vote: Unanimous  
Excused: Dick

**Case No. 2004-03 – Alleged Failure to Disqualify from Municipal Decision Affecting Economic Interests, Misuse of City Position**

Motion: Approve Stipulation  
Moved/Seconded  
Vote: Unanimous  
Excused: Dick

**Case No. 2005-07 – Alleged Failure to Obtain Required Contributor Information**

Motion: Approve Stipulation  
Moved/Seconded  
Vote: Unanimous  
Excused: Dick

**Case No. 2005-17 – Alleged Failure to Properly Identify “Paid for By” on Mass Mailer**

Motion: Approve Stipulation  
Moved/Seconded  
Vote: Unanimous  
Excused: Dick

**Case No. 2005-23 – Alleged Failure to Disclose Economic Interests**

Motion: Approve Stipulation  
Moved/Seconded  
Vote: Unanimous  
Excused: Dick

**Adjournment**

The meeting adjourned at approximately at 8:29 p.m.

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Dorothy Leonard, Chairwoman  
Ethics Commission

Katherine Hunt, Executive Secretary  
Ethics Commission

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