



**Minutes for Meeting of Thursday,
December 8, 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 Charles H. Dick, Jr., Lee Biddle, and Karen Thomas-Stefano

Excused – Commissioner Gil Cabrera

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 November 10, 2005, Ethics Commission Minutes

Motion: Approve
Moved/Seconded: Biddle/Stefano
Vote: Unanimous
Abstained: Dick
Excused: Cabrera

Item-4: Non-Agenda Public Comment

Melvin Shapiro questioned why Item 9 on the agenda is presented for possible action when there isn't a written report provided to the public.

Item-5: Commissioner Comment

None

Item-6: Executive Director Comment

Director Fulhorst reported that the proposed amendments to the Election Campaign Control Ordinance have been approved and will take effect January 11, 2006, the day after the special election. She advised the primary reason for changes to the ordinance was to include an electioneering communications provision. She mentioned that staff was currently revising the online fact sheets and frequently asked questions in preparation for the new laws taking effect in January. She also advised there will be Ethics training sessions scheduled for the Mayor's Office with the initial training for the core group of staff members in December and a second training in January for additional staff members.

Item-7: General Counsel Comment

None

Item-8: Proposed Amendments to Municipal Lobbying Ordinance

Director Fulhorst suggested the following schedule for upcoming Commission meetings:

- January meeting: discuss who should be required to register.
- February meeting: discuss exclusions for certain activities and individuals.
- March meeting: discuss the contents of registration forms and disclosure forms.
- April meeting: consider the issue of fees and any other miscellaneous issues.

Chairwoman Leonard commented that the Commission can give direction to staff at each meeting regarding suggested language for a draft ordinance to reflect the considered changes.

Commissioner Dick suggested that staff prepare for each meeting a statement of what they are proposing to correct for the section of the ordinance that is being considered for discussion. He added that having this included in the meeting materials will assist the Commission in making the appropriate changes to the ordinance.

Chairwoman Leonard commented that the Commission needs to evaluate what the purpose of the ordinance is and whether that purpose is still valid or needs to be changed. She emphasized the ordinance needs to reflect the purpose.

Director Fulhorst mentioned that the comparison chart reflecting the lobbying laws in place in other jurisdictions will be evolving over time as the Commission considers amendments.

John Dadian commented on recommendations as set forth in a letter distributed to the Commission.

Simon Mayeski of Common Cause commented regarding three points of concern. First, with respect to the threshold for registering, he recommended a \$1.00 threshold. Second, with respect to filing fees, he commented that raising fees would generate more income for the city, but could become burdensome for some. Third, with respect to enforcement of registration requirements, he recommended that they be strengthened.

Alberto Zevallo of Common Cause commented regarding registration fees and suggested excluding certain groups based upon levels of lobbying activity.

Chairwoman Leonard advised that the City Clerk's Office needs to be included when considering fees because they are the filing official.

Director Fulhorst mentioned that the City Clerk's Office and the Ethics Commission have begun preliminary discussions regarding fees and whether they should be related to the costs of developing a system for on-line filing of lobbying forms. She advised they will continue to collaborate regarding this matter.

Melvin Shapiro commented regarding the purpose of the lobbying ordinance and ex-parte communications, and recommended this be included in the proposed changes. He added that the County of San Diego's lobbying ordinance should be included for comparison purposes because it has a zero threshold, and prohibits gifts and campaign contributions from lobbyists.

Mitch Berner suggested a zero dollar threshold for lobbyist registration. He also suggested a same day requirement for registering which would entail registering as a lobbyist the same day that the first lobbying activity occurred.

Dan Coffey expressed concern regarding lowering the threshold, and questioned whether it would affect those individuals who are volunteers and act on behalf of community interests.

Chairwoman Leonard suggested posting the schedule for lobbying discussion topics at upcoming meetings on the Commission's website. She advised the Commission will handle the proposed changes in a systematic way and will consider a category of the ordinance at each scheduled meeting.

Item-9: Policy Regarding Representation of Private Clients by Ethics Commissioners

Director Fulhorst explained that the issues for the Commission to consider include the following:

- 1) Whether Commissioners should disclose the clients they represented prior to joining the Ethics Commission.
- 2) Whether Commissioners should represent private clients in front of City agencies.
- 3) Whether Commissioners should disclose representation of clients by other members of their law firms or accounting firms.

She advised that at the direction of the Commissioners, staff conducted research with other jurisdictions that was reviewed by Commissioner Stefano and our current Chair, Commissioner Leonard. At this time, the Chair and Commissioner Stefano have decided not to recommend an Ethics Commission policy re: representation of private clients. Her understanding is that their reasons are based on the following:

- 1) Staff research indicates that there are no similar policies in place in other jurisdictions.
- 2) State and local law already require the disclosure of economic interests when a Commissioner assumes office, and on an annual basis. These disclosure forms include sources of income.
- 3) State and local law already require Commissioners to disqualify themselves from participating in any decisions that could reasonably have a financial impact on any source of income.
- 4) The current and former Ethics Commissioners have consistently gone beyond the requirements in state and local law by recusing themselves from any enforcement issues in which there may be even an appearance of a conflict of interest.
- 5) Considering any policy above and beyond the current requirements in local and state law could be cumbersome and problematic for members of large law firms and could discourage qualified individuals from serving on the Ethics Commission.

Mel Shapiro commented that the Ethics Commission records do not disclose why commission members disqualify themselves from participating in Ethics Commission decisions because it's usually discussed in closed session.

Commissioner Stefano confirmed that, at this time, she does not believe it is necessary to adopt any policy in addition to existing law.

Item-10: Adjourn to Closed Session

Chairwoman Leonard adjourned the meeting to Closed Session at approximately 5:46 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 Leonard called the meeting back into Open Session at approximately 7:02 p.m.

Reporting Results of Closed Session Meeting of December 8, 2005

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. 2005-31 – In re: Alleged Violation Regarding Contribution in the Name of Another Individual.

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

Case No. 2005-70 – In re: Alleged Failure to Register as a Lobbyist

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

Case Nos. 2005-71 – In re: Alleged Failure to Register as a Lobbyist

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

Case No. 2005-75 – In re: Alleged Failure to Disclose “Paid for By” in Campaign Communication

Motion: Initiate Investigation
Moved/Seconded:
Vote: 4/1 Westfall voted nay.
Excused: Cabrera

Case No. 2005-76 – In re: Alleged Failure to Properly Disclose Campaign Activities

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

Item 2: Conference with Legal Counsel (3 potential matters)

One item withdrawn.

Case No. 2004-64 – In re: Alleged Failure to Obtain Required Contributor Information

Motion: To recuse Commissioner Biddle
Moved/Seconded:
Vote: Unanimous
Abstained: Biddle
Excused: Cabrera

Motion: To authorize a separate investigation
Moved/Seconded:
Vote: Unanimous
Recused: Biddle
Excused: Cabrera

Case No. 2005-06 – In re: Alleged Violation of Contribution Limits

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

Adjournment

The meeting adjourned at approximately at 7:06 p.m.

Dorothy Leonard, Chairwoman
Ethics Commission

Katherine Hunt, Executive Secretary
Ethics Commission

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