



**Minutes for Meeting of
Thursday, December 14, 2006**

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 Gil Cabrera, Commissioners Charles Dick, Jr., Lee Biddle and Larry Westfall

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

Excused – Karen Thomas-Stefano

Item-3: Approval of Commission Minutes

Approval of Ethics Commission Minutes of November 9, 2006

Commissioner Dick indicated that the intent of his comments concerning Item 8 was not reflected accurately in the minutes. Staff responded that changes would be made accordingly to correct the minutes.

Motion: to Approve as Amended
Moved/Seconded: Cabrera/Westfall
Vote: Unanimous
Excused: Thomas-Stefano

Item-4: Non-Agenda Public Comment

None

Item-5: Commissioner Comment

None

Item-6: Executive Director Comment

Director Fulhorst indicated that Senior Investigator Lauri Davis would introduce Francisco Murillo, the new Ethics Commission Auditor. She advised that the addition of the new auditor will enable staff to finish the audits from the 2004 election cycle.

Director Fulhorst reported on the following matters:

- COGEL conference she attended in New Orleans: she advised that her appointment to the steering committee will enable the Commission to have greater access to legislative trends around the country. She reported on “pay to play” legislation that involves regulating campaign contributions and fundraising by companies that contract with governmental agencies. She added that the Commission may wish to pursue this type of regulation in the future.
- Changes to the Commission’s Investigative Procedures: the City Council approved the changes on November 13 with the ordinance becoming effective 30 days after the second reading date of November 27. The changes will allow the Commission to self-generate complaints and will also expand the Commissioner appointment process.
- Lincoln Club litigation: she reported that the plaintiff has dismissed this case. She reiterated that this case concerned a legal challenge to the City’s limits on contributions used by general purpose recipient committees to make independent expenditures supporting or opposing City candidates. She related that, according to information obtained at the recent COGEL conference, similar legal challenges are ongoing in other California cities.
- 2006 Annual Report: it will be prepared and distributed in the near future.

Item-7 General Counsel Comment

None

Item-8 Proposed Changes to Lobbying Ordinance

Simon Mayeski addressed the following items in the staff report:

Item 1. Disclosure of City Official’s Name on Quarterly Report: he suggested keeping the number of City Officials to a manageable number.

Item 2. Revised Definiton of "Client": he supported option A.

Item 3. Disclosure of Previous Fundraising Activity on Registration Form: he supported an effective date of January 1, 2007.

Item 4. Disclosure of Previous Campaign Services: he supported an effective date of January 1, 2007, for this provision as well.

Item 5. Disclosure of Campaign Consultants: he withheld comment pending further Commission discussion regarding this issue.

Item 6. Clarify the Scope of Reportable Compensation: he questioned what problem the proposed change would solve for this section.

Director Fulhorst presented the staff report and made the following comments on the additional proposed changes:

1. Disclosure of City Official's Name on Quarterly Report: she noted that, pursuant to the Commission's direction, staff added the position of Council Committee Consultant and the deleted the position of candidate
2. Revised Definition of Client: she reported on the new trend in "grassroots" lobbying whereby lobbyists disclose that they represent a group of concerned citizens when a large percentage of their fees are paid for by one or more special interests. She explained the three options in the staff report and noted that staff recommends Option A, which would require lobbyists to disclose the identity of clients who pay or agree to pay \$1,000 or more for lobbying services.

The Commission discussed payments made by members of an organization to a lobbying firm.

Director Fulhorst clarified that an individual member would be disclosed on a registration form only if \$1,000 or more of a member's money was used to pay the lobbyist or lobbying firm.

Motion: to approve staff recommendation of Option A

Moved/Seconded: Cabrera/Dick

Vote: Unanimous

Excused: Stefano

3. Disclosure of Previous Fundraising Activity on Registration Forms

Director Fulhorst noted that at the last meeting, the Commission indicated that fundraising activities should be disclosed for two years instead of four years, with a grandfather exemption back to January 1, 2007.

She related that staff subsequently received input from the regulated community indicating that it would be inappropriate and potentially unlawful for City laws to retroactively address past conduct.. However, staff believes the proposed law as indicated in Option A is appropriate and lawful because the requirement only applies to the disclosure and not to the legality of the fundraising activities.

Director Fulhorst pointed out, however, that because of the City's pre-election fundraising time limits, a January 1, 2007, grandfather date would only result in capturing fundraising activity for the six month period from June through December, 2007.

Chairwoman Leonard clarified that adopting an exemption date of January, 2008, as noted in Option B, wouldn't capture any lobbying activity in 2007.

Commissioner Westfall suggested leaving the exemption date of January 1, 2007, in order to capture fundraising activity for the 6 month period from June through December, 2007.

Motion: to approve Option A
Moved/Seconded: Westfall/Dick
Vote: Unanimous
Excused: Stefano

4. Disclosure of Previous Campaign Services: Director Fulhorst advised that staff recommends Option A for this section in order for it to remain consistent with the provision concerning the disclosure of fundraising activity.

Motion: Approve Option A
Moved/Seconded: Cabrera/Dick
Vote: Unanimous
Excused: Stefano

5. Disclosure of Campaign Consultants: Director Fulhorst reiterated that the Rules Committee recommended including this disclosure within the Lobbying Ordinance. She noted that, at the November meeting, the Commission directed staff to draft a provision requiring the disclosure of campaign consulting services provided to both candidate and ballot measure committees. In order to retain internal consistency within the ordinance, staff recommends changing this disclosure requirement to apply to candidate committees and ballot measure committees controlled by City candidates (which would include City officeholders).

Motion: to approve staff recommendation
Moved/Seconded: Biddle/Cabrera
Vote: Unanimous
Excused: Stefano

6. Clarify the Scope of Reportable Compensation: Director Fulhorst advised that the new draft reflected the changes discussed at the November meeting, which would require lobbyists to report the total compensation received from each client in lieu of reporting the amount for each decision influenced.

Director Fulhorst reviewed the following additional miscellaneous changes to the ordinance:

Definition of Candidate: has been amended to include individuals currently holding elective City office.

Definition of Contact: language has been incorporated to clearly state that only those communications made for the purpose of influencing a municipal decision are considered contacts. In addition, the revised definition of contact clarifies that a substantially similar letter sent to one or more city officials is still considered one contact regardless of the format used such as email or fax.

Commission Cabrera asked how this definition would apply to personal contacts.

Director Fulhorst clarified that the language concerning substantially similar contacts would apply to correspondence, facsimiles, or emails, and not to personal meetings.

Disclosure of Information – Registration Forms and Quarterly Reports: both forms will require the title of the person completing the forms, in addition to his or her name and signature.

Activity Expenses: the language was revised to clarify that lobbyists must disclose activity expenses with a value of more than \$10. This change will eliminate the need for lobbyists to disclose gifts that equal exactly \$10, which seemed appropriate in light of the Commission's proposed \$10 gift limit. In addition, she reported that language had been deleted that required the reporting of any expenses that exceeded \$50.00 in the aggregate because the proposed \$10/month gift limit eliminates the possibility of \$50/quarter in gifts.

Expenditure Lobbyists – Quarterly Reports: staff added language to clarify that the expenditures reported on a lobbying firm's or organization lobbyist's quarterly reports do not need to be reported on an expenditure lobbyist's quarterly disclosure report and would not be counted towards the \$5,000 expenditure lobbyist threshold.

Director Fulhorst reviewed two draft fact sheets prepared by staff. One addressed exceptions to the Lobbying Ordinance and the second provided guidelines for organizations and individuals to assist them in determining whether they qualify as lobbyists. She added that distribution of the "Am I a Lobbyist" fact sheet at Council Meetings and at the City Clerk's office would provide a means of educating those who may need to register as lobbyists.

Chairwoman Leonard advised that the proposed changes are scheduled to return to the Rules Committee on January 24, 2007.

Item-9 Ethics Commission Case Logs

Director Fulhorst advised that staff has received requests that additional information be provided on the case logs, specifically with regard to dismissal of cases. In response, staff proposed creating a list of six general reasons for case dismissals. She explained that staff could indicate why a case was dismissed by listing the number that corresponded with the appropriate reason in a footnote on the case log.

Melvin Shapiro commented on the staff's proposed listing of reasons for case dismissals.

Director Fulhorst responded that if a case was dismissed during the preliminary review period, it would be noted accordingly on the case log with a footnote indicating the appropriate reason.

Chairwoman Leonard addressed Mr. Shapiro's comments regarding item 5 and clarified that the Commission would not dismiss a case until the requisite forms were filed, even if the filer did not receive adequate notice regarding the filing requirements.

Director Fulhorst suggesting implementing the addition of new information to the case logs beginning in 2007.

The Commission discussed various ways to provide the information on the case log in order to provide disclosure while presenting the information in an easy to understand form. They agreed to delete the word "additional" from item 3.

Motion: to add reasons for case dismissal to the case log with the deletion of the word "additional" from Item 3 and for staff to determine the formatting

Moved/Seconded: Dick/Biddle

Vote: Unanimous

Excused: Stefano

Item-10: Adjournment to Closed Session

Chairwoman Leonard adjourned the meeting to Closed Session at approximately 6:00 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 7:00 p.m.

Reporting Results of Closed Session Meeting of December 14, 2006

Chairwoman Leonard reported the results of the Closed Session Meeting of December 14, 2006:

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

One item withdrawn.

Case No. 2006-73 – In Re: Alleged Failure to Register as a Lobbyist

Motion: Initiate Investigation

Moved/Seconded:

Vote: Unanimous

Excused: Stefano

Case No. 2006-75 – In Re: Alleged Contribution in the Name of Another Person

Motion: Recuse Commissioner Dick

Moved/Seconded:

Vote: Unanimous

Abstained: Dick

Excused: Stefano

Motion: Dismiss

Moved/Seconded:

Vote: Unanimous

Recused: Dick

Excused: Stefano

Case No. 2006-76 – In Re: Alleged Failure to Disclose Lobbying Clients

Motion: Initiate Investigation

Moved/Seconded:

Vote: Unanimous

Excused: Stefano

Case No. 2006-77 – In Re: Alleged Failure to Register as a Lobbyist

Motion: Initiate Investigation

Moved/Seconded:

Vote: Unanimous

Excused: Stefano

Item 2: Conference with Legal Counsel (23 potential matters)

Case No. 2006-40 – In Re: Alleged Participation in Municipal Decisions Involving Interests of Future Employer

Motion: Dismiss

Moved/Seconded:

Vote: Unanimous

Excused: Stefano

Case Nos. 2005-80, 2005-82 through 2005-97, and 2006-01 through 2006-05 – In Re: Alleged Failure to File Disclosure of Economic Interests

No Reportable Action Taken

Item 3: Personnel Matter – Evaluation of Performance of Executive Director

No Reportable Action Taken

Adjournment

The meeting adjourned at approximately 7:05 p.m.

Dorothy Leonard, Chairwoman
Ethics Commission

Kathy Hunt, Executive Secretary
Ethics Commission

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