



**Minutes for Meeting of  
Thursday, February 8, 2007**

**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 Larry Westfall, Charles H. Dick, Jr., and Lee Biddle

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

Excused – Karen Thomas-Stefano

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

**Approval of Ethics Commission Minutes of January 11, 2007**

Motion: Approve

Moved/Seconded: Dick/Cabrera

Vote: Unanimous

Excused: Stefano

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

None

**Item-5: Commissioner Comment**

None

**Item-7 General Counsel Comment** (This item was taken out of order - preceded Executive Director comment)

Ms. McGuire reported on a recent decision from the Ninth Circuit Court of Appeals regarding the application of contribution limits to the signature gathering phase of recall elections. She explained that the court found that the City had not presented sufficient evidence to support the imposition of contribution limits, and therefore the case is on remand to the lower court for further evidentiary development.

**Item-6: Executive Director Comment**

Contribution Limits for Recall Elections:

Director Fulhorst commented in response to Ms McGuire's report. She explained that the City's campaign laws have historically treated recall elections as candidate elections. She noted that, as a result of past Commission discussion on this issue, the City's campaign and election laws were amended to allow the subject of a recall to begin fundraising at the same time that proponents begin signature gathering. She pointed out however, that the State's laws do not treat recall elections as candidate elections and cited the recent gubernatorial recall. She added that staff will work with the City Attorney's Office on the continuing litigation of this matter.

Volunteer Intern:

She reported that a volunteer third year law student from USD will be assisting staff on the recall matter. She added that the intern completed an internship with the Fair Political Practice Commission and the State's Legislative Counsel's Office.

On-Line Training:

She reported on the development of improvements to the online ethics training program. In addition, she added that Ethics Commission Program Manager Steve Ross has developed a database to store and track training information for officials who receive ethics training from the Commission.

Personnel Matters:

A second investigator has been hired from the Neighborhood Code Compliance Department. In addition, staff will start the process to fill the position of Ethics Commission Trainer soon after the application period closes next week.

Fact Sheets:

Two new fact sheets have been issued: one concerns joining a city board or commission; the other provides guidelines regarding the twelve-month pre-election fundraising time period.

## **Item-8 Proposed Amendments to the Municipal Lobbying Ordinance**

Director Fulhorst reported on the following staff recommendations:

### Disclosure of Compensated Services under a City Contract:

The matter of lobbyists working under contracts for the City recently came to the staff's attention. She pointed out that, as with campaign services, this arrangement may serve to create a special relationship with City officials. She noted that both Los Angeles and San Francisco require the disclosure of this information. She advised that the draft language mirrors the language regarding the disclosure of campaign-related services.

### Adding Campaign Services to Organization Lobbyist Disclosure

The Commission previously decided to require contract lobbyists to disclose campaign related services. The staff suggests that this disclosure requirement also apply to organization lobbyists.

### Minor Drafting Change – Compensated Campaign Services

In order to clarify as well as simplify the draft language, staff suggested eliminating the clause "including consulting services" in subsections 27.4009(a)(4) and 27.4017(a)(7).

### Lobbyists' Obligation to Assist with Disclosure

The current Commission proposal would place the obligation on lobbying firms and organization lobbyists to disclose lobbying activity. Staff proposes additional language that would require individual lobbyists to assist with the disclosure requirements by ensuring accurate information is provided to their employers.

Commissioner Cabrera commented that adding this provision might be an attempt to regulate employer/employee relations and suggested having this issue handled through the civil employment arena.

Commissioner Dick commented that there may be rare instances where employees do not comply with the lobbying disclosure requirements mandated for their employers. However, he questioned whether it was necessary for the Commission to revise the ordinance to allow enforcement action against an individual in these situations.

Commissioner Cabrera commented that the proposed section may provide an opportunity for lobbyist employers to avoid responsibility for violations of the City's lobbying laws by placing the blame on their employees.

In response to Commission comment, Director Fulhorst recommended not including the proposed section in the draft ordinance.

Simon Mayeski commented with regard to a letter submitted to the Commission. He noted that after hearing Commission discussion regarding Item D of the staff report, he agreed that the section should not be included in the draft ordinance.

James Sutton provided comments as set forth in a letter to the Commission regarding the recent Ninth Circuit decision concerning recall elections. In addition, he commented on the Rules Committee's remarks with regard to a proposed disclosure of campaign consultant activity by lobbyists.

In response to Mr. Sutton's comments, Director Fulhorst added that the staff is confident that there has been sufficient legal review of the Commission's proposed changes, and that they will withstand legal scrutiny. She noted that the Commission minutes and staff reports include samples of empirical evidence. She pointed out that empirical evidence was used as the basis for recommendations made to the Rules Committee at the last meeting. She added that this information will also be conveyed to the City Attorney's staff.

Commissioner Dick commented that there may be a distinction between empirical and anecdotal evidence. He added that the proposed provisions involve value judgments that may be challenged in the future in a court of law.

In response to Commissioner Dick's comments, Commissioner Cabrera noted that the decision-making process used by the Commission with respect to the lobbying laws is characteristic of the legislative process.

With respect to Mr. Sutton's letter, Commissioner Cabrera disagreed with his assertion that the Commission's recommendations are not based on empirical evidence. He cited several lobbying corruption cases in connection with campaign contributions that the Commission drew evidence from to support their recommendations. In reference to Mr. Sutton's suggestion regarding legal review of the ordinance, he pointed out that the Commission's general counsel reviewed every provision in the draft ordinance. In addition, he commented that his recollection of the Rules Committee meeting was that there was a general consensus among the members regarding the inclusion of a disclosure requirement for campaign-related services from lobbyists.

Motion: Approve Item A  
Moved/Seconded: Cabrera/Biddle  
Vote: Unanimous  
Excused: Stefano

Motion: Approve Item B  
Moved/Seconded: Biddle/Cabrera  
Vote: Unanimous  
Excused: Stefano

Motion: Approve Item C  
Moved/Seconded: Dick/Westfall  
Vote: Unanimous  
Excused: Stefano

Director Fulhorst advised that the proposed amendments are scheduled for the March 7, 2007, Rules Committee meeting. She added that staff will brief the Deputy City Attorneys assigned to the Committee.

**Item 9: Presentation of Final Audit Report Regarding the Audit of the Donna Frye for Mayor Committee from the 2004 Election Cycle**

Director Fulhorst advised that the Ethics Commission's previous auditor had started the Donna Frye audit and the current auditor completed it.

Motion: Accept report  
Moved/Seconded: Westfall/Dick  
Vote: Unanimous  
Excused: Stefano

Commissioner Westfall asked about the status of the remaining audits and the timeframe for completion.

Commission Auditor Francisco Murillo provided the status report on the remaining audits.

Director Fulhorst advised that the next audit draw is September, 2007.

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

Chairwoman Leonard adjourned the meeting to Closed Session at approximately 5:50 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 6:35 p.m.

## **Reporting Results of Closed Session Meeting of February 8, 2007**

Chairwoman Leonard reported the results of the Closed Session Meeting of February 8, 2007

**Item 1: Conference with Legal Counsel** (12 potential matters)

### **Case No. 2006-11 – In Re: Alleged Failure to Obtain and Report Required Contributor Information**

Motion: Dismiss

Vote: Unanimous

Excused: Stefano

### **Case No. 2006-42 – In Re: Alleged Failure to Properly Disclose Economic Interests**

No Reportable Action

### **Case No. 2006-62 – In Re: Alleged Failure to File Campaign Statements**

No Reportable Action

### **Case No. 2006-63 – In Re: Dwayne Crenshaw - Alleged Failure to File Campaign Statements**

Motion: Approve Stipulation

Vote: Unanimous

Excused: Stefano

### **Case No. 2006-64 – In Re: Alleged Failure to File Campaign Statements**

Motion: Dismiss

Vote: Unanimous

Excused: Stefano

### **Case No. 2006-65 - In Re: Allen Hujsak - Alleged Failure to File Campaign Statements**

Motion: Approve Stipulation

Vote: Unanimous

Excused: Stefano

### **Case No. 2006-66 - In Re: Alleged Failure to File Campaign Statements**

No Reportable Action

**Case No. 2006-67 - In Re: Alleged Failure to File Campaign Statements**

No Reportable Action

**Case No. 2006-70 - In Re: Alleged Failure to File Campaign Statements**

No Reportable Action

**Case No. 2006-12 – In Re: Cynthia Morgan – Alleged Failure to Register as a Lobbyist and File Disclosure Reports**

Motion: Approve Stipulation

Vote: Unanimous

Excused: Stefano

**Case No. 2006-69 – In Re: Alleged Failure to Disclose Economic Interests**

No Reportable Action

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

Motion: Dismiss

Vote: Unanimous

Excused: Stefano

**Adjournment**

The meeting adjourned at approximately 6:40 p.m.

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Dorothy Leonard, Chairwoman  
Ethics Commission

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Kathy Hunt, Executive Secretary  
Ethics Commission

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