



**Minutes for the Meeting of  
Thursday, August 9, 2007**

**Item-1: Call to Order**

Chairman Cabrera called the meeting to order at 5:00 p.m.

**Item-2: Roll Call**

Present – Chairman Guillermo Cabrera, Vice-Chair Lee Biddle, Commissioners Clyde Fuller, Krishna Haney, Dorothy Leonard, Richard Valdez and Larry Westfall

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

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

**Approval of Ethics Commission Minutes of July 12, 2007**

Motion: Approve

Moved/Seconded: Leonard/Haney

Vote: Carried Unanimously

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

None

**Item-5: Commissioner Comment**

None

**Item-6: Executive Director Comment**

Director Fulhorst noted that at the last meeting that Dorothy Leonard chaired that she had neglected to recognize and mention the many contributions Commissioner Leonard had made to the Commission while serving as the Chair and as a Commissioner. She pointed out that Commissioner Leonard was one of the original Commissioners and was instrumental in getting the Commission started.

Chairman Cabrera also commended Commissioner Leonard on her dedication to the Commission.

Director Fulhorst reported that the new Commission Chair Gil Cabrera had started his own private law practice.

Director Fulhorst reported on the following Commissioner matters:

Lobbying Ordinance

The proposed amendments were approved by Council and will go into effect on January 1, 2008. At the City Council meeting, an amendment was added that will exempt non-profit events from the \$10 gift limit. In addition, the Mayor's recommendation concerning a prohibition on campaign contributions from lobbyists to City candidates was referred to the Rules Committee. Staff will create relevant fact sheets and conduct training sessions before the new laws take effect.

Commission Photo

Director Fulhorst suggested that a Commission photo be taken immediately before the September meeting.

**Item-7 General Counsel Comment**

None

**Item-8 Potential Expansion of the Ethics Commission's Jurisdiction**

Director Fulhorst reported on Councilmember Madaffer's recommendation to expand the Ethics Commission's jurisdiction to include classified employees who file Statements of Economic Interests [SEIs]. She reiterated that this proposal would add 750 employees to the Commission's jurisdiction, both for purposes of education and enforcement. She noted that Nancy Roberts, the Supervising Labor Relations Representative with the Municipal Employees Association [MEA], was in attendance because MEA represents the majority of the employees who would be affected. She added that Scott Chadwick, the Director of Labor Relations, was also in attendance.

Chairman Cabrera indicated that the purpose for docketing this item was to have information presented to the Commission from interested parties in order for the Commission to make a decision at a later date.

Nancy Roberts commented that MEA supports the concept of the proposal. She indicated that MEA is receptive to the idea of having the Ethics Commission monitor the SEI reporting process and provide education and training for classified employees who file SEIs. She commented there may be additional issues that will need to be addressed concerning the role the Commission would play with regard to any enforcement action taken against an employee. She noted that implementation of this proposal would be subject to the “meet and confer” process between the City and MEA.

Commissioner Leonard commented in response to Ms. Robert’s remarks and explained that the City Clerk’s role was to monitor the process as the filing authority and the Ethics Commission’s role was education and enforcement of the Ethics Ordinance.

Director Fulhorst added that the decision to require certain employees in a particular job classification to file SEIs is not within the Commission’s jurisdiction.

Director Fulhorst commented that Councilmember Madaffer’s proposal would subject the classified employees who file SEIs to all of the provisions in the City’s Ethics Ordinance, not just the provisions regarding the filing of SEIs. She noted, however, that this issue was open for discussion.

Commissioner Leonard added that it was important to consider whether certain sections of the Ethics Ordinance could be applied to classified employees who file SEIs.

Director Fulhorst cautioned that only applying certain sections of the Ethics Ordinance may create inconsistencies within the Municipal Code.

Chairman Cabrera asked how the enforcement provisions of the ordinance would be applied.

Director Fulhorst responded that the education, investigation, and enforcement provisions would apply to any employee within the Commission’s jurisdiction. She explained the enforcement process, including the administrative fines that can be imposed by the Commission, and she pointed out violations of the Ethics Ordinance may also be prosecuted as misdemeanors by the City Attorney’s Office.

Scott Chadwick reiterated that consideration of Councilmember Madaffer’s proposal would need to be addressed through the City’s meet and confer process with labor organizations. He noted that classified employees are exempt from a post-employment “cooling off” period as a result of the passage of Proposition C. He indicated that this issue needed to be considered if any classified employees were placed under the purview of the Ethics Commission.

Director Fulhorst commented that this would be a good time for the Commission to consider this recommendation because the meet-and-confer process will commence in the Spring of 2008.

Chairman Cabrera questioned whether the Commission should docket this matter for discussion at future meetings and at some point indicate the Commission's position to those involved in the meet-and-confer process.

Commissioner Biddle responded that the Commission may want to indicate their position on this matter to the City Officials who handle the meet-and-confer process.

Director Fulhorst commented that if the proposal is ultimately approved during the meet and confer process, the Commission will need to prepare corresponding amendments to the Municipal Code for Council approval. In addition, the Commission will need to consider whether additional staffing is required.

Commissioner Leonard asked if the meet and confer process and the corresponding changes to the Municipal Code would occur simultaneously.

Scott Chadwick explained how meet and confer items are coordinated with amendments to the Municipal Code. He noted that there can be a delay between the finalization of meet and confer issues, and the related changes to the Municipal Code. He added that if the recommendations went through the meet and confer process, the earliest the resulting changes would be finalized would be July 1, 2008, and the Municipal Code amended sometime after that.

Commissioner Westfall commented with regard to staffing issues.

Director Fulhorst commented that any impact on staffing levels would depend upon the outcome of the meet and confer process, and whether some or all of the provisions in the Ethics Ordinance would apply to classified employees who file SEIs.

Commissioner Valdez asked what entity currently has jurisdiction over classified employees who file SEIs with regard to enforcement of conflict of interests laws .

Director Fulhorst responded that the California Fair Political Practices Commission is the current enforcement authority. She pointed out that the City's Ethics Ordinance is modeled on the state's conflict of interest laws.

Commissioners Westfall and Valdez acknowledged that the classified employees would benefit from education provided by the Commission, but expressed their concern regarding the potential impact of additional training and enforcement actions on the Commission's staffing.

Commissioner Fuller asked if it was possible for the Commission to provide education without enforcement.

Director Fulhorst responded that this option had not been previously considered. She mentioned the possibility of sharing the online training program with MEA.

Commissioner Biddle commented that it is his understanding that the City must give direction to the City's labor negotiators with regard to the proposal.

Scott Chadwick commented that he would like to have an idea as to what the Ethics Commission would accept as a proposal to forward to Council.

Director Fulhorst suggested that staff explore possible issues that may arise during consideration of the proposal. The staff could then report back to the Commission at the September and/or October meetings, at which time the Commission could decide how to respond to Councilmember Madaffer. She added that the staff will also report back on budget and staffing considerations related to the proposal.

Chairman Cabrera asked the staff to weigh in on the issue of whether some or all of the provisions in the Ethics Ordinance should apply to classified employees who file SEIs. He added that it would be helpful for the labor representatives to continue attending the Commission meetings to share their comments regarding the proposal.

#### **Item-9 Proposed Amendments to the Ethics Commission Audit Manual**

Director Fulhorst reported that the proposed changes are housekeeping amendments. She advised that there will be more substantive changes proposed for the Commission's consideration in the future. She added that her understanding is that if the Commission approves the changes they will be added to the consent agenda for the City Council Rules Committee and then the full City Council.

Motion: Approve Changes  
Moved/Seconded: Westfall/Fuller  
Vote: Carried Unanimously

#### **Item-10 Adoption of Commission Calendar for 2008**

Adoption of the 2008 Ethics Commission Meeting Calendar.

Motion: Approve  
Moved/Seconded: Leonard/Biddle  
Vote: Carried Unanimously

#### **Item-11: Adjournment to Closed Session**

Chairman Cabrera adjourned the meeting to Closed Session at approximately 5:45 p.m. He 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**

Chairman Cabrera called the meeting back into open session at approximately 6:33 p.m.

## **Reporting Results of Closed Session Meeting of August 9, 2007**

Chairman Cabrera reported the results of the Closed Session Meeting of August 9, 2007

**Item 1: Conference with Legal Counsel** (14 potential matters)

**Case No. 2007-71 – In Re: Alleged Failure to Disclose Economic Interests**

Motion: Initiate Investigation

Vote: Carried Unanimously

**Case No. 2007-72 – In Re: Alleged Failure to Disclose Economic Interests and to Disqualify from Municipal Decision Affecting Economic Interests**

Motion: Initiate Investigation

Vote: Carried Unanimously

**Case No. 2007-73 – In Re: Alleged Failure to Disqualify from Municipal Decision Affecting Economic Interests**

Motion: Initiate Investigation

Vote: Carried Unanimously

**Cases 2007-74 thru 2007-84 – In Re: Alleged Failure to File Statements of Economic Interests**

Motion: Initiate Investigations

Vote: Carried Unanimously

**Item 2: Conference with Legal Counsel** (5 potential matters)

**Case No. 2005-81 – In Re: Alleged Failure to File Statement of Economic Interests**

Motion: Recuse Commissioner Haney

Vote: Carried Unanimously

Recused: Haney

Motion: Dismiss  
Vote: Carried Unanimously  
Recused: Cabrera/Haney

**Case No. 2007-10 – In Re: Alleged Contribution in Excess of Limit, Contribution from an Organization, Contribution made in Name of Another Person**

Motion: Dismiss  
Vote: Carried Unanimously

**Case No. 2007-11 – In Re: Alleged Contribution from an Organization and Contribution made in Name of Another Person**

Motion: Dismiss  
Vote: Carried Unanimously

**Case No. 2007-40 – In Re: Alleged Failure to File Lobbying Reports**

Motion: Dismiss  
Vote: Carried Unanimously

**Case No. 2007-70 – In Re: Alleged Failure to File Lobbyists Quarterly Reports and Improper Reporting of Lobbying Activity**

No Reportable Action

**Item 3: Conference with Legal Counsel** (1 Potential Matter)

**San Diego Ethics Commission Final Audit Report: 2005 Lobbyist Disclosure Reports**

Motion: Accept Report  
Vote: Carried Unanimously

**Adjournment**

The meeting adjourned at approximately 6:35 p.m.

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Guillermo Cabrera, Commission Chair  
Ethics Commission

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Kathy Hunt, Executive Secretary  
Ethics Commission

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