



**Minutes for Meeting of
Thursday, December 13, 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 (arrived 5:05 p.m.), Dorothy Leonard, Richard Valdez and Larry Westfall

Staff – Executive Director Stacey Fulhorst, General Counsel Alison Adema, Program Manager Steve Ross, Senior Investigator Lauri Davis and Executive Secretary Katherine Hunt

Item-3: Approval of Commission Minutes

Approval of Ethics Commission Minutes of November 8, 2007

Motion: Approve
Moved/Seconded: Leonard/Westfall
Vote: Carried Unanimously
Excused: Haney
Abstained: Fuller

Item-4: Non-Agenda Public Comment

None

Item-5: Commissioner Comment

Chairman Cabrera indicated that agenda item 9 and 10 would be taken out of order before item 8 in order to expedite the meeting.

Item-6: Executive Director Comment

None

Item-7 General Counsel Comment

None

Item-8 Proposed Amendments to Election Campaign Control Ordinance

CENTER FOR GOVERNMENTAL STUDIES:

Director Fulhorst introduced guest speakers Robert Stern and Tiffany Mok from the Center for Governmental Studies (CGS). She advised that they would be providing a presentation on local public financing programs in the United States. She explained that the Center for Governmental Studies is a non-profit, non-partisan, 501(c)(3) organization in Los Angeles that studies different methods of implementing improvements in self-government. She commented that Mr. Stern is the president of CGS and is one of the co-authors of the Political Reform Act. She noted that guest speaker Tiffany Mok practiced law at several political and election law firms prior to working at the Center for Governmental Studies.

Mr. Stern commented that the City of San Diego has the most restrictive public campaign finance law in the nation due in part to low contribution limits, limiting contributions to individuals and requiring occupation disclosure information on contributions. He added that he has made recommendations to other jurisdictions to adopt San Diego's laws.

He noted that California was rated as having good disclosure laws. However, he pointed out that San Diego's laws were rated higher because of the required disclosure of occupation and employer information.

He reiterated that San Diego has very low contribution limits. He added that contribution limits will always result in independent expenditures but only in competitive campaign races. He noted that it is difficult to restrict independent expenditures and the amount a candidate contributes to their own campaign because of Supreme Court rulings.

He reported that six jurisdictions in California use public financing. He advised that Los Angeles has a very successful public financing program; providing a total of 2 million dollars per year. He noted most candidates use the public financing in Los Angeles.

He explained that public financing programs include matching and clean money financing programs. He noted that clean money financing usually involves the collection of small contributions.

He explained that the primary purposes of public financing are to encourage more candidates to run in elections, increase competition and decrease the influence of money on the governmental process. He relayed the pros and cons of public financing. He indicated that the greatest problem is where to obtain the money. He explained that most people don't believe general funds should be used for this purpose. He commented that Arizona has found a solution to this problem by assessing a 10% penalty to all criminal and civil fines to be used for funding of financing of campaigns.

Chairman Cabrera asked how many candidates were using the public financing program in Arizona.

Mr. Stern responded that it is used by 40% to 50% of the candidates. He commented that although some jurisdictions have found ways to avoid using the general fund, there are some such as Los Angeles that do. His recommendation was for government agencies that adopt public financing programs, to fund them through the general fund. He suggested that local government agencies have their charters mandate the amount of general funds to be appropriated for public campaign financing.

He advised that strong enforcement and auditing is necessary for jurisdictions using public campaign financing in order to ensure that public campaign funds are correctly used by candidates for the appropriate purposes. He pointed out that no law will cover all the potential problems. He noted that the critical issue to be addressed was whether citizens in San Diego were happy with the current law and how much are people in San Diego were willing to pay for better, cleaner and fairer elections.

Commissioner Fuller asked how funds assigned to a particular campaign are tracked.

Mr. Stern responded that strong auditing provisions are used whenever public funds are involved.

Commissioner Biddle commented that use of independent expenditures could greatly affect a jurisdiction's budget.

Mr. Stern pointed out that there needs to be a cap used whenever independent expenditures are involved.

Chairman Cabrera asked how jurisdictions determine the amount of funds to be allocated for public campaign financing for an election.

Mr. Stern responded that it's determined by studying past elections that involve competitive campaign races and the amount is indexed for cost of living changes. He added that use of "clean" money results in lower campaign costs because the candidates don't have to pay a fundraiser.

Commissioner Valdez asked if reporting deadlines are altered for reporting of independent expenditures when public campaign financing is used.

Mr. Stern responded that a 24 hour reporting deadline is used as well as a \$1,000 threshold for independent expenditures.

Chairman Cabrera addressed the subject of the Commission's consideration of increasing private contribution limits.

Mr. Stern expressed his view that the City's should maintain its low limits, but indicated he is in favor of indexing in order to gradually adjust the limits to keep pace with cost of living increases.

PROFESSOR BRIAN ADAMS:

Director Fulhorst introduced Professor Brian Adams, an assistant political science professor from San Diego State University and noted that he specializes in urban politics. She added that he has published several articles and papers and noted that his paper on the effects of contribution limits and partial public financing was distributed to the Commission.

Mr. Adams reported that he would be presenting information resulting from his research concerning contribution limits and partial public financing in eleven cities.

He commented that his study focused on the impact that contribution limits have on fundraising. His study indicated that lower contribution limits resulted in smaller contribution sizes but didn't necessarily change the type of people who contribute. He also noted that lower contribution limits resulted in less expensive elections.

In addition, his research indicated that raising contribution limits doesn't necessarily eliminate independent expenditures.

He pointed out that incumbents may be more affected by contribution limits than challengers. However, his research findings indicate that contribution limits don't necessarily work against challengers, as few are able to raise contributions that reach the contribution limits. Results of the study indicate that contribution limits don't necessarily favor incumbents or challengers.

He added that there isn't any evidence to support the argument that contribution limits help self-financed candidates.

He advised that six of the cities included in his study have partial public financing programs based on matching funds formulas. He presented the following points regarding the impact of public financing on competitiveness as well as on the contributor pool:

- Public financing doesn't increase the number of candidates that run.
- It doesn't reduce the funding gap between incumbents and challengers; however, it still can significantly benefit challengers.
- With regard to contribution patterns, proponents of partial public financing believe that it will bring about a more democratic funding base; however, he found little evidence to support this assumption.
- He found little evidence that public financing reduces private fundraising.

In conclusion, his research indicated that contribution limits and partial public financing have had some minor positive impacts and no evidence of any negative impact on electoral dynamics.

Commissioner Leonard asked how many of the cities included in the study have term limits.

Mr. Adams responded that several cities in the study, including Los Angeles and New York have term limits. However, he explained that research indicated that even in cities without term limits, most incumbents don't face a lot of challengers.

Chairman Cabrera asked Mr. Stern if there was any data on the change in competitiveness or number of people running in areas that have full public financing.

Mr. Stern responded that he would provide this data to the Commission.

Commissioner Valdez asked whether there should be a disparity between the contribution limit amounts for citywide and council district election races.

Mr. Stern recommended maintaining the same limits for both city-wide and district races for purposes of simplicity.

Mr. Adams added that it may be best to use public financing at the council district level before making it available for city-wide races.

Commissioner Haney asked whether jurisdictions that used partial public financing separated the public funds from the general fund.

Mr. Stern responded that the funds are not separated. He noted that auditing is always done when public funds are used.

Ms. Adema commented on partial public financing and asked if there is less of an issue with the appearance of corruption when using clean money for elections.

Mr. Stern responded that there hasn't been any evidence to indicate that there is any difference between the two systems with regard to an appearance of corruption. However, he noted that Arizona candidates have indicated that accepting public funds provided a means to campaign independently of special interest groups.

NEIGHBORHOODS FOR CLEAN ELECTIONS:

Director Fulhorst introduced representatives from the Neighborhoods for Clean Elections: Simon Mayeski with Common Cause, and Larry Remer, a local political consultant. She advised that they would be providing a presentation on a proposal for public financing of City of San Diego elections.

Mr. Remer presented the results of a survey of San Diego voters conducted in December of 2005, regarding a proposed initiative for clean elections. He noted that the results of the survey indicated that public opinion supported a clean elections ballot measure.

Mr. Remer clarified that their proposal for clean elections would require that general funds be used.

Mr. Mayeski presented the details of the full public financing proposal for candidates running for City of San Diego elected offices. He noted that the proposal recommended that an amount equal to \$6 per City of San Diego resident be appropriated to fund the public financing program. He indicated that they are hoping the Ethics Commission will recommend the proposal to the City Council for approval.

Chairman Cabrera asked why the proposal allowed candidates to have an officeholder fund after they've been elected to office.

Mr. Remer responded that it would provide a means for newly elected officials to attend community events without accepting gifts.

Director Fulhorst added that although the City doesn't have officeholder funds, the elected candidate's leftover campaign funds essentially serve as officeholder funds. She pointed out that candidates using public financing through clean elections wouldn't have leftover campaign funds to use for this purpose.

Jean Brown of Common Cause spoke in favor of clean elections reform through public financing for San Diego elections.

Chairman Cabrera advised that the Commission would continue to hear public comment at the January meeting. He indicated that the Commission would begin to address all the issues considered by the Commission at that time and begin to direct staff on drafting proposed amendments. He added that any submittals from the

public should be sent to staff in time for the January meeting. He also asked that any proposals for public financing be accompanied by an identified funding source.

Commissioner Westfall requested information regarding the impact that incorporating the proposal for publicly financing city elections would have on Commission staff and resources if implemented.

Director Fulhorst responded that staff would report back with that information at the January meeting. She noted that increased auditing would most likely have the greatest impact on staffing.

Item-9 Adoption of Legislative Calendar for Calendar Year 2008

Adoption of the 2008 Ethics Commission Legislative Calendar

Motion: Approve calendar

Moved/Seconded: Valdez/Fuller

Vote: Carried Unanimously

Item-10 Retention of Outside Counsel for Probable Cause and Administrative Hearings

Chairman Cabrera commented on arrangements for retaining outside counsel for the Commission in connection with an upcoming probable cause hearing. He suggested obtaining legal representation through an exchange of legal services between the Ethics Commission and the City of Chula Vista's Attorney's Office and to finalize the details in a memorandum of understanding (MOU). He added that the Commission can consider paying an hourly rate if his suggested arrangement is not a viable alternative.

Item-11: Adjournment to Closed Session

Chairman Cabrera adjourned the meeting to Closed Session at approximately 6:58 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 8:10 p.m.

Reporting Results of Closed Session Meeting of December 13, 2007

Chairman Cabrera reported the results of the Closed Session Meeting of December 13, 2007.

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

Cases 2007-74 through 2007-80, 2007-82 through 2007-84 – In Re: Failure to File Statements of Economic Interests

Motion: Dismiss

Vote: Carried Unanimously

Case No. 2007-81 In Re: Kirsten Clemons – Alleged Failure to File Statement of Economic Interests

Motion: Approve Stipulation

Vote: Carried Unanimously

Case No. 2007-89 In Re: Alleged Acceptance of Gift in Excess of Limit

No Reportable Action

Case No. 2007-91 In Re: Alleged Failure to File Lobbyist Quarterly Disclosure Report

Motion: Dismiss

Vote: Carried Unanimously

Case No. 2007-93: In Re: Alleged Solicitation of Campaign Contributions from City Employees

No Reportable Action

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

Case No. 2006-59 – In Re: Luis Acle - Alleged Failure to Pay Vendor Debt

No Reportable Action

Case No. 2007-46 – In Re: Christopher Clifford – Alleged Failure to File Statement of Economic Interests

Motion: Approve Stipulation

Vote: Carried Unanimously

Item 3: Personnel Matter – Evaluation of Performance

No Reportable Action

Adjournment

The meeting adjourned at approximately 8:15 p.m.

Guillermo Cabrera, Commission Chair
Ethics Commission

Kathy Hunt, Executive Secretary
Ethics Commission

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