



**Minutes for Meeting of
Thursday, February 12, 2009**

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 Richard Valdez, Commissioners Lee Biddle, Clyde Fuller, Krishna Haney, Dorothy Leonard, and Larry Westfall

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

Item-3: Approval of Commission Minutes

Approval of Ethics Commission Minutes of January 15, 2009

Motion: Approve
Moved/Seconded: Haney/Fuller
Vote: Carried Unanimously
Abstained: Cabrera

Item-4: Non-Agenda Public Comment

None

Item-5: Commissioner Comment

Chairman Cabrera thanked Vice-Chair Valdez for chairing the January meeting.

Item-6: Executive Director Comment

Director Fulhorst reported on the following matters:

- The City's Chief Financial Officer and Director of Financial Management advised Director Fulhorst that they will ask that the City Council not make any further reductions to the Commission's budget in the upcoming fiscal year.
- Statements of Economic Interests are due on April 1. The City Clerk's office will email a logon to the Commissioners who have previously filed online.

Item-7: General Counsel Comment

None

Item-8: Presentation of Final Audit Report Regarding the Audit of the Quarterly Lobbyist Disclosure Reports for Calendar Year 2006

Auditor Rosalba Gomez presented the Final Audit Report and reported there were no material findings and asked the Commission to accept the report.

Motion: Accept report
Moved/Seconded: Leonard/Haney
Vote: Carried Unanimously

Item-9: Presentation of Final Audit Report Regarding the Audit of the Quarterly Lobbyist Disclosure Reports for Calendar Year 2007

Auditor Rosalba Gomez presented the Final Audit Report and reported there were no material findings and asked the Commission to accept the report.

Motion: Accept report
Moved/Seconded: Leonard/Haney
Vote: Carried Unanimously

Item-10: Proposed Amendments to the Ethics Commission's Operating Policies

Director Fulhorst advised that staff reviewed the Operating Policies in order to update them to correspond with changes made to the Municipal Code in 2008. She explained that after conferring with the Commission Chair, staff proposed to delete sections that duplicate the Municipal Code and leave the sections that supplement the Municipal Code. She explained that large sections of the Operating Policies had been cut-and-pasted from the Municipal Code. She reviewed the following proposed changes:

- On page 2, under Section 3, a new addition explains that the Operating Policies are intended to supplement the Municipal Code.
- A correction needs to be made to Section 2 on page 6 concerning Term of Office: the election of officers will take place in June instead of July.
- Pages 11 and 12, Article XII – Release of Records: Although Section 1 will be deleted, Section 2 will remain because it doesn't duplicate the Municipal Code.

She advised that the matter to be decided by the Commission is whether to have the Operating Policies stand alone or have them serve as a supplemental document to the Municipal Code.

Commissioner Leonard suggested changes that she believes will clarify the policies by rearranging and reorganizing some of the sections and leaving in some of the information that staff suggested could be deleted.

After Commission discussion, Chairman Cabrera directed staff to strike the Municipal Code source for Section 1 on page 3 concerning compensation since it was left in by error.

Motion: Accept staff's proposal with the following changes: include Commissioner Leonard's recommended changes; replace the word July with June on page 6, Section 2; strike notation of the source for Section 1 on page 3

Moved/seconded: Valdez/Biddle

Vote: Carried Unanimously

Chairman Cabrera confirmed that the approval date of the new changes will be February 12, 2009.

Item-11: Proposed Amendments to Ethics Commission's Hearing Procedures

Director Fulhorst advised that because the Hearing Procedures were not drafted to duplicate the Municipal Code, there are only minor changes that need to be made in order to update the Procedures. The changes are as follows:

- Page 2: new definitions for "parties" and "service" were added
- Page 5, Section 7.06: change time period from twenty calendar days before a hearing to thirty-five
- Page 6, Section 8.03: change language to clarify method of service
- Page 6, Section 9.01: change deadline for exchanging information before a Probable Cause Hearing from twenty-one days to thirty days.
- Page 7, Section 11.02: update made to specify that the General Counsel may advise the Petitioner during a hearing and that the Presiding Authority may obtain its own legal counsel.

- Page 8, Section 13.01: change in wording for oath

Chairman Cabrera noted that some of the proposed changes resulted from recommendations made by Commissioners who served as the Presiding Authority in prior hearings held by the Commission.

Director Fulhorst suggested that if the Commission approves the changes, they should become effective April 1 because there is a Probable Cause Hearing scheduled to take place on March 20, 2009.

Commissioner Haney referred to the section concerning the oath and asked about a potential prohibition on witnesses perjuring themselves before the Commission.

Chairman Cabrera responded that the issue of not being truthful was previously addressed when the City Council rejected a Commission proposal to add a section to the Municipal Code that would prohibit someone lying to the Commission during the course of an investigation.

Commissioner Leonard suggested adding the original date that the Hearing Procedures were approved on the front cover with subsequent amendment dates to follow.

Motion: Approve staff recommendations; include Commissioner Leonard's suggestions and have the changes become effective April 1, 2009.

Moved/Seconded: Leonard/Valdez

Vote: Carried Unanimously

Item-12: Adjournment to Closed Session

Chairman Cabrera adjourned the meeting to Closed Session at approximately 5:25 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 6:30 p.m.

Reporting Results of Closed Session Meeting of February 12, 2009

Chairperson Cabrera reported the results of the Closed Session Meeting of February 12, 2009.

Item-1: Conference with Legal Counsel (6 potential matters)

Case No. 2007-12 – In Re: - Alleged Failure to Properly Disclose Economic Interests

Motion: Dismiss

Vote: Carried Unanimously

Recused: Haney and Cabrera

Case No. 2008-30 – In Re: Alleged Failure to File Statement of Economic Interests

No Reportable Action

Case No. 2008-44 - In Re: Alleged Failure to File Statement of Economic Interests

Motion: Dismiss

Vote: Carried Unanimously

Case No. 2008-54 – In Re: Alleged Failure to Disclose Economic Interests and Alleged Participation in Municipal Decision Affecting Economic Interests

No Reportable Action

Case No. 2008-56 – In Re: Alleged Participation in Municipal Decision Affecting Economic Interests and alleged Financial Interests in a Contract

Motion: Dismiss

Vote: Carried Unanimously

Case No. 2008-61 – In Re: Alleged Solicitation of Campaign Contributions from City Employees

Motion: Dismiss

Vote: Carried Unanimously

Item-2: Conference with Legal Counsel (1 potential matter)

Case No. 2008-59 – In Re: Cornerstone Strategies - Alleged Failure to Timely File Lobbying Reports

No Reportable Action

Item-3: Conference with Legal Counsel (1 potential matter)

**Luis Acle v. City of San Diego Ethics Commission, San Diego Superior Court
Case No. 37-2008-00094460-CU-WM-CTL**

No Reportable Action

Adjournment

The meeting adjourned at approximately 6:35 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.***