



**Minutes for Meeting of
Thursday, May 14, 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, Commissioners Lee Biddle, Krishna Haney, Dorothy Leonard, Richard Valdez 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

Excused – Commissioner Clyde Fuller

Item-3: Approval of Commission Minutes

Approval of Ethics Commission Minutes of April 9, 2009.

Motion: Approve

Moved/Seconded: Leonard/Haney

Vote: Carried Unanimously

Excused: Fuller

Abstained: Valdez

Item-4: Non-Agenda Public Comment

None

Item-5: Commissioner Comment

None

Item-6: Executive Director Comment

Director Fulhorst reported on the following matters:

- Ethics Commission's Budget

The Commission's FY2010 budget was presented to the City Council. The Mayor advised that although the mid-year cuts will become permanent, there will not be any additional cuts to the Commission's budget. She mentioned that pay cuts taken by Commission staff members will be reflected in the amended budget approved by the City Council.

- Extension for Debt Retirement

Director Fulhorst advised that in response to a request from Council President Ben Hueso's professional expense and legal defense fund committee, she granted an extension of time to retire debt in accordance with the municipal code requirements. She explained that she granted an extension of six months because the committee demonstrated that it was making a diligent effort to pay off its debts.

Item-7: General Counsel Comment

None

Item-8: Proposed Amendments to the Commission's Investigative and Enforcement Procedures

Director Fulhorst reported that the proposed changes were originally included with other proposals submitted to the City Council last fall; the majority of the proposals were approved but two were returned to the Rules Committee for further study. She stated that the two proposals concerned adding a prohibition against providing false evidence to the Commission during an investigation or hearing, and a provision that authorizes witness subpoenas for investigations.

She indicated that if the Commission is in favor of returning the two proposed amendments to the Rules Committee, she would request that direction be given to staff to work with the Commission Chair and Vice-Chair concerning any changes to the ordinance language suggested by the City Attorney's staff. She advised that staff plans to confer with the City Attorney's office with a view toward addressing their concerns and agreeing on the proposed language before it is submitted to the Rules Committee.

April Boling commented that she believes that there should be a prohibition on providing false information in a complaint that is filed with the Commission. She expressed concern that under the proposed changes, there would not be any consequences when a complaint was filed with false information unless an investigation was authorized.

Director Fulhorst explained that the Commission does not accept complaints based upon pure speculation; there has to be supporting evidence that accompanies the complaint. She explained that in the event a complainant were to provide witness testimony or documents that served as the sole basis for the complaint, the complainant would be interviewed as a witness during the course of the ensuing investigation. Accordingly, the proposed prohibition would address situations in which a complainant knowingly provided false evidence.

Chairman Cabrera added that the preliminary review process is designed to eliminate complaints that lack substance in the form of supporting facts and documentation. He pointed out that if it appears that a complaint does have substance, an investigation would be authorized and the proposed prohibition would apply if it turned out that knowingly false information was submitted in the original complaint.

Simon Mayeski asked if more detail was added in connection with the section concerning failure to obey subpoenas.

Director Fulhorst clarified that California Government Code sections were added to subsection (h). In addition, language concerning the failure to obey subpoenas was moved and redundant language was deleted.

Commissioner Valdez referred to complaints that are dismissed due to insufficient supporting evidence, and asked who would have knowledge of the complaint and any information considered by the Commission in connection with the complaint.

Director Fulhorst explained the Commission's procedures require that a dismissal letter be sent to both the complainant and the respondent. She advised that complaint files are open to the public if an investigation is not authorized by the Commission.

Motion: Motion to approve proposed changes for forwarding to Rules Committee with the understanding that the Commission Chair and Vice-Chair will provide guidance to staff with respect to any language changes that do not affect the substance of the proposed amendments

Moved/Seconded: Leonard/Valdez

Vote: Carried Unanimously

Excused: Fuller

Item-9: Appointment of Ad Hoc Committee to Nominate Commission Officers at June 11, 2009, Commission Meeting

Chairman Cabrera reported that he and Commissioner Haney will serve on an Ad Hoc Committee to nominate new Commission officers.

Item-10: Adjournment to Closed Session

Chairman Cabrera adjourned the meeting to Closed Session at approximately 5:27 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 6:00 p.m.

Reporting Results of Closed Session Meeting of May 14, 2009

Chairman Cabrera reported the results of the Closed Session Meeting of May 14, 2009.

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

Case No. 2009-47 - In Re: Alleged Failure to Properly Disclose Economic Interests

Motion: Initiate Investigation

Vote: Carried Unanimously

Excused: Fuller

Recused: Valdez

Case No. 2009-48 – In Re: Alleged Failure to File Campaign Statements

Motion: Initiate Investigation

Vote: Carried Unanimously

Excused: Fuller

Case No. 2009-49 – In Re: Alleged Failure to Timely Pay Vendor Debt

Motion: Initiate Investigation

Vote: Carried Unanimously

Excused: Fuller

Case No. 2009-50 – In Re: Alleged Failure to Report Contributions, Acceptance of Contributions from an Organization, Acceptance of Contributions in Excess of Limit, and Failure to Timely Pay Vendor Debt

Motion: Initiate Investigation

Vote: Carried Unanimously

Excused: Fuller

Case No. 2009-51 – In Re: Alleged Failure to Timely File Campaign Statement

Motion: Initiate Investigation

Vote: Carried Unanimously

Excused: Fuller

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

Case No. 2009-04 – In Re: Alleged Failure to Timely Register as Organization Lobbyist and File Quarterly Disclosure Reports; Alleged Gifts Made to City Officials in Excess of Limit

No Reportable Action

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

San Diego Ethics Commission Audit Report: Ian Trowbridge for City Council

Motion: Accept Report

Vote: Carried Unanimously

Excused: Fuller

Item 4: Conference with Legal Counsel (1 potential matter)

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

Motion: Approve Stipulation

Vote: Carried Unanimously

Excused: Fuller

Item-5: 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 6:05 p.m.

Guillermo Cabrera, Commission Chair
Ethics Commission

Katherine Hunt, Executive Secretary
Ethics Commission

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