



**Minutes for Meeting of
Thursday, August 13, 2009**

Item-1: Call to Order

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

Item-2: Roll Call

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

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

Excused – Commissioner Krishna Haney

Item-3: Approval of Commission Minutes

Approval of Ethics Commission Minutes of July 9, 2009

Motion: Approve

Moved/Seconded: Fuller/Leonard

Vote: Carried Unanimously

Excused: Haney

Item-4: Non-Agenda Public Comment

None

Item-5: Commissioner Comment

Commissioner Cabrera commented on the communications he's received in connection with recent events concerning the Ethics Commission and the work that the Commission has done in the last several years.

Commissioner Leonard asked what the status was of the four termed-out Ethics Commission members with respect to the appointment process.

Director Fulhorst responded that the appointment process is on hold due to a proposal to develop a new appointment process. She advised that the matter will likely be docketed for the September 16 Rules Committee meeting. In addition, the Mayor and his staff may be working on an alternative process. She noted that the Ethics Commission will not have a role in the process of developing the new policy.

Item-6: Executive Director Comment

None

Item-7: General Counsel Comment

None

Item-8: Audit Materiality

Director Fulhorst commented that this matter was continued from the last meeting in order to further clarify the type of direction that staff was seeking from the Commission with respect to determining audit materiality. She advised that the Commission's Auditor currently considers the five materiality criteria set forth in the Audit Manual, but that in accordance with prior direction from the Commission, the Auditor has placed an emphasis on the importance of the law in making a materiality determination. She explained that the Commission's prior direction was intended to enhance the educational aspects of the auditing process.

She stated that Final Audit Reports with material findings are posted on the Commission's website even though many do not involve enforcement action. She noted that Commissioner Westfall recently suggested that staff include the cover letter with the Final Audit Report because the cover letter will explain that the Commission did not think an enforcement action was appropriate in many situations.

She advised that as a result of Commission staff conducting audits through several election cycles, education has become less of an issue. As a result, she advised that the staff recommends a return to the industry standard, which involves equal consideration of all five materiality criteria.

She referred to a handout with examples of audit findings from previous audit reports and explained that, if the Commission agreed with the direction proposed by staff, similar findings encountered in future audits would not be deemed "material." She further explained that a vote was not necessary as there were no proposed changes to the Audit Manual. Instead, she asked if any of the Commissioners had any concerns or questions about the new approach proposed by staff. No Commissioners expressed any concerns or posed any questions. As a result, Director Fulhorst advised that the staff would move forward with the audits from the 2008 election cycle in accordance with the new approach with respect to materiality.

Chairman Valdez suggested that it may be helpful to have a Commissioner periodically review nonmaterial audit findings. Director Fulhorst offered to cull together immaterial findings for review on an annual basis.

Item-9: Presentation of Final Audit Report Concerning the Myke Shelby for Mayor Committee

Commission Auditor Rosie Gomez presented the Final Audit Report and advised that there were no material findings and recommended that the Commission accept the report.

Motion: Accept Report
Moved/Seconded: Westfall/Fuller
Vote: Carried Unanimously
Excused: Haney

Item-10: Adoption of Commission Meeting Calendar for 2010

Director Fulhorst advised that all the meetings were scheduled for the second Thursday of each month except for the January and November meetings which have been scheduled on the third Thursday of the month.

Motion: Adopt Calendar for 2010 Commission Meeting Schedule
Moved/Seconded: Cabrera/Biddle
Vote: Carried Unanimously
Excused: Haney

Item-11: Adjournment to Closed Session

Chairman Valdez adjourned the meeting to Closed Session at approximately 5:20 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 Valdez called the meeting back into open session at approximately 6:10 p.m.

Reporting Results of Closed Session Meeting of August 13, 2009

Chairman Valdez reported the results of the Closed Session Meeting of August 13, 2009.

Item-1: Conference with Legal Counsel (16 potential matters)

Case No. 2009-75 - In Re: Alleged Contributions in Excess of Limit

Motion: Initiate Investigation
Vote: Carried Unanimously
Excused: Haney

Case Nos. 2009-76 through 2009-85 – In Re: Alleged Failure to File Statements of Economic Interests

Motion: Initiate Investigations
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-86 – In Re: Alleged Misuse of City Position

Motion: Initiate Investigation
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-88 – In Re: Alleged Gift to City Officials by Lobbyist in Excess of Limit

Motion: Dismiss
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-90 – In Re: Alleged Acceptance of Contributions from Organizations

Motion: Dismiss
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-91 – In Re: Alleged Failure to Timely File Statement of Economic Interests

Motion: Dismiss
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-92 – In Re: Alleged Failure to Properly Disclose Information on Campaign Statements

Motion: Initiate Investigation
Vote: Carried Unanimously
Excused: Haney

Item-2: Conference with Legal Counsel (40 potential matters)

One item withdrawn

Case No. 2008-54 – In Re: Nancy Graham - Alleged Participation in Municipal Decisions Affecting Economic Interests

Motion: Ordered a Probable Cause Hearing and Authorized the issuance of a Probable Cause Report and Draft Administrative Complaint. Hearing scheduled for November 6, 2009, at 9:30 a.m.

Vote: Unanimous

Recused: Valdez

Excused: Haney

Case No. 2008-79 – In Re: Alleged Misuse of City Position

No Reportable Action

Case No. 2009-26 – In Re: Public Solutions - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Ordered a Probable Cause Hearing and Authorized the issuance of a Probable Cause Report and Draft Administrative Complaint. Hearing scheduled for November 6, 2009, at 9:00 a.m.

Vote: Unanimous

Excused: Haney

Case Nos. 2009-12, 2009-13, 2009-20, 2009-22, 2009-25, 2009-27, 2009-29, 2009-31 – In Re: Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Dismiss

Vote: Carried Unanimously

Excused: Haney

Case No. 2009-06 – In Re: Ace Parking - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation

Vote: Carried Unanimously

Excused: Haney

Case No. 2009-07 – In Re: Paola Avila - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation

Vote: Carried Unanimously

Excused: Haney

Case No. 2009-08 – In Re: Deborah Berger - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation

Vote: Carried Unanimously

Excused: Haney

Case No. 2009-09 – In Re: Bridge Housing Corp. - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation

Vote: Carried Unanimously

Excused: Haney

Case No. 2009-10 – In Re: Business Improvement District - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation

Vote: Carried Unanimously

Excused: Haney

Case No. 2009-11 – In Re: Todd Cardiff - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation

Vote: Carried Unanimously

Excused: Haney

Case No. 2009-14 – In Re: Cortes Communications - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation

Vote: Carried Unanimously

Excused: Haney

Case No. 2009-15 – In Re: Earth Media - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation

Vote: Carried Unanimously

Excused: Haney

Case No. 2009-16 – In Re: Ek & Ek - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation

Vote: Carried Unanimously

Excused: Haney

Case No. 2009-17 – In Re: Gerding/Edlen - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-18 – In Re: Julie Hamilton - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-19 – In Re: Laster Consulting - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-21 – In Re: Lounsbery Ferguson - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-23 – In Re: National Electrical Contractors Assn. - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-24 – In Re: PB Community Development Corp. - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-28 – In Re: SD Association of Realtors - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-30 – In Re: Unite HERE Local 30 - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-32 – In Re: Wright L'Estrange - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-33 – In Re: YWCA - Alleged Failure to Timely File Lobbying Quarterly Disclosure Reports

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-34 - In Re: Alleged Failure to Disclose Lobbying Contacts on Lobbying Quarterly Disclosure Report and Alleged Failure to Timely File Quarterly Disclosure Statements

Motion: Dismiss
Vote: Carried Unanimously
Excused: Haney

Case Nos. 2009-39 and 2009-40 - In Re: Alleged Failure to Disclose Lobbying Contacts on Lobbying Quarterly Disclosure Report

Motion: Dismiss
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-41 - In Re: Alleged Failure to Disclose Lobbying Contacts on Lobbying Quarterly Disclosure Report

Motion: Dismiss
Vote: Carried Unanimously
Recused: Westfall
Excused: Haney

Case Nos. 2009-42, 2009-43, 2009-44 – In Re: Alleged Failure to Disclose Lobbying Contacts on Lobbying Quarterly Disclosure Report

Motion: Dismiss
Vote: Carried Unanimously
Excused: Haney

Case No. 2009-51 – In Re: International Association of Fire Fighters FIREPAC – Alleged Failure to Timely File Campaign Statement

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Haney

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

San Diego Ethics Commission Audit Report: Friends of Michael Zucchet 2006 Committee

Motion: Accept Report
Vote: Carried Unanimously
Excused: Haney
Recused: Cabrera

Item 4: 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 6:15 p.m.

Richard Valdez, Commission Chair
Ethics Commission

Katherine Hunt, Executive Secretary
Ethics Commission

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