



**Minutes for Meeting of  
Thursday, September 10, 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, Commissioners Lee Biddle, Guillermo Cabrera, 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: Random Drawing for Audit of 2008 Election Cycle**

Director Fulhorst explained the audit selection procedures as set forth in the Ethics Commission's Audit Manual. She explained that the candidate and ballot measure committees from the 2008 election cycle are placed in pools based on financial activity. She introduced Denise Jenkins and Clarisa Santiago from the City Clerk's office. She advised that they will conduct the random drawing of committees according to a listing of qualified candidate and ballot measure committees compiled by the City Clerk's office.

**Candidate Controlled Committees:**

FINANCIAL ACTIVITY BETWEEN \$10,000 AND \$49,000:

Friends of Bob Ilko  
Gentry for City Attorney  
Friends of David Tos

FINANCIAL ACTIVITY BETWEEN \$50,000 AND \$99,999:

John Hartley for City Council

FINANCIAL ACTIVITY BETWEEN \$100,000 OR MORE:

Re-elect City Attorney Mike Aguirre  
Committee to Elect Marshall Merrifield  
Carl DeMaio for City Council for 2012, fka Reform City Hall with Carl DeMaio  
April Boling for City Council  
Marti Emerald for City Council  
Brian Maienschein for City Attorney  
Jan Goldsmith for City Attorney  
Scott Peters for City Attorney  
Phil Thalheimer for City Council  
Re-elect Mayor Sanders  
Steve Francis for Mayor

### **BALLOT MEASURE COMMITTEES**

FINANCIAL ACTIVITY BETWEEN \$10,000 AND \$49,999:

No on Proposition C – Neighborhoods for Honest Government  
(June 2008 election)

FINANCIAL ACTIVITY BETWEEN \$50,000 AND \$99,999:

Save Mission Bay – Yes on C  
(November 2008 election)

FINANCIAL ACTIVITY BETWEEN \$100,000 OR MORE:

Yes on Proposition A, B & C  
Committee (June 2008 Election)  
Save Beaches San Diego Yes on D  
(November 2008 Election)

Director Fulhorst thanked Ms. Jenkins and Ms. Santiago for conducting the drawing and noted that the Commission's Auditor will immediately commence the audits of the selected committees.

#### **Item-4: Approval of Commission Minutes**

##### **Approval of Ethics Commission Minutes of August 13, 2009**

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

#### **Item-5: Non-Agenda Public Comment**

Councilmember Marti Emerald addressed the Commission regarding the investigation of her campaign committee, and read a letter sent to the Commission staff from her Attorney Bob Otilie.

Mike Marrinan commented that he was representing Tom Adler in connection with a complaint filed by Mr. Adler with the Ethics Commission. He stated that Mr. Adler's complaint had been dismissed, and expressed concern that complaints can be dismissed during the preliminary review process, without first being reviewed by the Commission.

Chairman Valdez clarified that he reviewed the complaint and was aware of the Executive Director's decision to dismiss the complaint. He pointed out that the Commission reviews cases dismissed by the Director during preliminary review on an annual basis.

#### **Item-6: Commissioner Comment**

Commissioner Haney thanked the Commission members and staff for their patience during her absence while she was taking care of her grandparents.

Commissioner Westfall asked if the audits of the upcoming election cycle will be completed in a timely fashion.

Director Fulhorst responded that the upcoming audits should be completed within the next two years as planned. She added that staff has completed all of the audits from the last election cycle.

Commissioner Haney asked if the Commission's auditing activities could be outsourced.

Director Fulhorst provided an explanation as to why outsourcing would not be practical.

#### **Item-7: Executive Director Comment**

Director Fulhorst congratulated Commissioner Cabrera on the birth of his second daughter.

Director Fulhorst commented on the City Attorney's Memo regarding a proposal to modify the appointment process for appointments made to the Ethics Commission. She advised that the City Attorney opined that changing the appointment process to allow a panel of retired judges to make appointments to the Commission would require a City Charter amendment. She stated that, as a result, it appears that the existing procedures will be used to fill positions on the Commission.

#### **Item-8: General Counsel Comment**

Ms. Adema provided an overview of the issues in a case argued yesterday before the United States Supreme Court. She explained that the case, *Citizens United v. the Federal Election Commission*, concerns the federal law banning corporate spending in federal candidate elections and whether this prohibition impermissibly infringes on speech protected by the First Amendment. She noted that a decision is expected before the end of the year, and could have an impact on the 2010 election cycle; however, she clarified that, if the Court overturns the current ban, it will not have a direct impact on local campaign laws.

Director Fulhorst clarified that the current federal law prohibits independent expenditures by corporations. By contrast, the City's campaign laws do not place any limits on independent expenditures made by corporations in support of City candidates.

#### **Item-9: Adjournment to Closed Session**

Chairman Valdez adjourned the meeting to Closed Session at approximately 5:35 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 6:25 p.m.

#### **Reporting Results of Closed Session Meeting of September 10, 2009**

Chairman Valdez reported the results of the Closed Session Meeting of September 10, 2009

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

##### **Case No. 2009-94 - In Re: Alleged Failure to Disclose Campaign Contributions and Fundraising Activities**

Motion: Initiate Investigation

Vote: Carried Unanimously

##### **Item-2: Conference with Legal Counsel (7 potential matters)**

##### **Case No. 2008-73 – In Re: Alleged Failure to Disclose Accrued Expenses and Alleged Failure to Timely Pay Vendor Debts**

No Reportable Action

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

No Reportable Action

**Case No. 2009-03 – In Re: Alleged Failure to Properly File Campaign Statements**

No reportable action

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

No reportable action

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

Motion: Dismiss

Vote: Carried Unanimously

Recused: Valdez

**Case No. 2009-58 – In Re: Richard Rider - Alleged Failure to Report Campaign Contributions and Expenditures**

Motion: Approve Stipulation and Accept Final Audit Report

Vote: Carried Unanimously

**Item-3: Conference with Legal Counsel (2 potential matters)**

**San Diego Ethics Commission Audit Report: Ralph Inzunza for City Council**

Motion: Accept Report

Vote: Carried Unanimously

**San Diego Ethics Commission Audit Report: San Diegans for the Mt. Soledad National War Memorial**

Motion: Accept Report

Vote: Carried Unanimously

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

Luis Aclé 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 6:25 p.m.

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Richard Valdez, Commission Chair  
Ethics Commission

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Katherine Hunt, Executive Secretary  
Ethics Commission

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