



**Minutes for Regular Meeting of
Thursday, August 12, 2010**

Item-1: Call to Order

Commission Chair Westfall called the meeting to order at 5:00 p.m.

Item-2: Roll Call

Present – Commission Chair Larry Westfall, Vice-Chair Lee Biddle, Commissioners Clyde Fuller, John O’Neill, and Bud Wetzler, and Attorney Lisa Foster

Staff – Executive Director Stacey Fulhorst, Program Manager Steve Ross, Senior Investigator Lauri Davis, and Executive Secretary Kathy Hunt

Item-3: Approval of Commission Minutes

Approval of Ethics Commission Minutes of July 8, 2010

Motion: Approve

Moved/Seconded: O’Neill/Fuller

Vote: Carried Unanimously

Item-4: Non-Agenda Public Comment

None

Item-5: Commissioner Comment

None

Item-6: Administrative Hearing: In re the Matter of Nancy Graham (Case No. 2008-54); Deliberation of the Commission

The parties presented arguments in connection with the allegations in Petitioner's Final Administrative Complaint and the evidence presented by the parties at the hearing on May 20, 2010. The Commission subsequently conducted deliberations in accordance with San Diego Municipal Code sections 26.0437 and 26.0438. Each Commissioner stated that he personally heard or read the testimony and reviewed the exhibits admitted into evidence at the hearing.

Motion: That the Respondent committed 18 violations of the Ethics Ordinance as reflected in Counts 7, 8, 9, 10, 12, 13, 14, 15, 24, 25, 26, 27, 28, 29, 30, 31, 33, and 34 of the Final Administrative Complaint

Moved/Seconded: Westfall/Fuller

Vote: Carried Unanimously

Commission Chair Westfall reviewed the guidelines set forth in San Diego Municipal Code section 26.0438, and explained that the Presiding Authority considered these guidelines in connection with its recommendation that the Commission impose a fine in the amount of \$25,000.

The Commissioners subsequently discussed specific aspects of the guidelines set forth in the Municipal Code. Commissioner O'Neill expressed his opinion that there was evidence of an intent to deceive and mislead, and suggested a fine in the amount of \$35,000.

Commissioner Wetzler stated that he agreed with Commissioner O'Neill concerning the intent to conceal and mislead, and added that conflicts of interest at a senior, executive level are the most serious types of violations.

Commissioner Biddle stated that he agreed with the characterizations presented by Commissioners O'Neill and Wetzler, but noted that a fine of \$25,000 would be the second largest fine in the Commission's history.

Commissioner Westfall pointed out that a fine of \$36,000 (instead of \$35,000) would equate to \$2,000 for each of the 18 counts.

Motion: To impose a \$36,000 fine

Moved/Seconded: O'Neill/Wetzler

Vote: Failed (Commissioners Biddle and Fuller voting nay)

Motion: To impose a \$32,000 fine based on the following: \$4,000 per count for Counts 33 and 34, and \$1,500 per count for the remaining 16 counts

Moved/Seconded: Westfall/Fuller

Vote: Carried Unanimously

Commission Chair Westfall directed the Petitioner to prepare a Resolution and an Administrative Enforcement Order in accordance with the Commission's ruling, and to include a provision directing the Respondent to pay the fine within thirty days.

Item-7: Adoption of Commission Calendar for 2011

Motion: to adopt calendar with the exception of the December 8, 2011, meeting date that will be moved to December 15, 2011.

Moved/Seconded: Fuller/Biddle

Vote: Carried Unanimously

Item-8: Adjournment to Closed Session

Commission Chair Westfall adjourned the meeting to Closed Session at approximately 5:55 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

Commission Chair Westfall called the meeting back into open session at approximately 6:25 p.m.

Reporting Results of Closed Session Meeting of August 12, 2010

Commission Chair Westfall reported the results of the Closed Session Meeting of August 12, 2010:

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

Case No. 2010-66 - In Re: - Alleged Failure to Disclose Economic interests and Acceptance of Gift in Excess of Annual Limit

Motion: Initiate Investigation

Vote: Carried Unanimously

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

One item withdrawn

Case No. 2010-44 – In Re: Alleged Misuse of Campaign Funds

Motion: Dismiss

Vote: Carried Unanimously

Recused: Commissioner O’Neill

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

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

No Reportable Action

Adjournment

The meeting adjourned at approximately 6:30 p.m.

Larry Westfall, Commission Chair
Ethics Commission

Katherine Hunt, Executive Secretary
Ethics Commission

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