



**Minutes for Meeting of
Thursday, October 14, 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, Commissioners Faye Detsky-Weil, Clyde Fuller, William J. Howatt, Jr., John O’Neill, and Bud Wetzler

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

Excused – Vice-Chair Lee Biddle

Item-3: Approval of Commission Minutes

Approval of Ethics Commission Minutes of September 9, 2010

Motion: Approve

Moved/Seconded: O’Neill/Fuller

Vote: Carried Unanimously

Excused: Biddle

Item-4: Non-Agenda Public Comment

Simon Mayeski invited the Commissioners and staff to the 40th anniversary celebration of Common Cause on November 13, 2010 at 5:00 p.m. at the Joan Kroc Peace and Justice Center. He added that former Ethics Commissioners Gil Cabrera and Dorothy Leonard will be honored at the event.

Item-5: Commissioner Comment

Commission Chair Westfall welcomed new Commissioners Faye Detsky-Weil and William Howatt.

Item-6: Executive Director Comment

Director Fulhorst provided an update on the Request for Qualifications process for General Counsel services. She explained that she anticipates interviewing qualified firms in mid-November and noted that Commissioners O'Neill and Howatt have agreed to assist her and Commission Chair Westfall with this process.

Commissioner Fuller asked how hiring an outside law firm to provide General Counsel services compares with hiring a full-time staff attorney.

Director Fulhorst explained that, although the hourly rate for an outside law firm will be higher than an hourly rate for a staff attorney, the Commission would not incur the costs of fringe benefits associated with the staff position. Moreover, she explained that she anticipates retaining an outside firm to provide only part-time General Counsel services, which would result in budgetary savings that could be used to pay for Administrative Law Judges to preside over Commission hearings, and outside counsel to serve as Petitioners.

Item-7: General Counsel Comment

None

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

Director Fulhorst reported that the proposed amendments to the Municipal Code would provide the Ethics Commission with the option of paying an administrative law judge from the State Office of Administrative Hearings [OAH] to preside over Ethics Commission administrative hearings. She pointed out that other agencies in California routinely use the OAH for their hearings, and that it would eliminate the need for volunteer Commissioners to devote their time to serve as hearing officers.

She explained that under the proposed procedures, the OAH would preside over the hearing and prepare a written recommendation. The Commission would then consider the recommendation at a Commission meeting, and would make a final decision regarding the alleged violations and the fine. She noted that the OAH charges approximately \$185 per hour.

Commissioner Fuller asked if staff could provide a rough estimate of the costs that would have been incurred if the OAH had presided over the Commission's previous administrative hearings.

Director Fulhorst responded that it would be difficult to estimate the number of hours that an Administrative Law Judge would have spent on a particular matter. She

pointed out that the proposed amendment would add the OAH as an option, and that the Commissioners could still opt to preside over a hearing themselves if there are budgetary concerns.

Commission Chair Westfall pointed out that it would be difficult to use a cost comparison based upon the number of hours the Commissioners spent on previous hearings because administrative law judges may have handled the hearings more efficiently.

Motion: Approve recommending amendment of Municipal Code sections 26.0402 and 26.0435(b)(2)(C) to add proposed language that adds the option of using an administrative law judge to serve as the Presiding Authority for Ethics Commission hearings

Moved/Seconded: O'Neill/Wetzler

Vote: Carried Unanimously

Excused: Biddle

Item-9: Adjournment to Closed Session

Commission Chair Westfall 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

Commission Chair Westfall called the meeting back into open session at approximately 6:12 p.m.

Reporting Results of Closed Session Meeting of October 14, 2010.

Commission Chair Westfall reported the results of the Closed Session Meeting of October 14, 2010.

Item-1: Conference with Legal Counsel (10 potential matters)

Case Nos. 2010-79 through 2010-82 In Re: Alleged Failure to Timely File Lobbying Quarterly Disclosure Report

Motion: Initiate Investigations

Vote: Carried Unanimously

Excused: Biddle

Case Nos. 2010-83 through 2010-85 – In Re: Alleged Failure to File Statements of Economic Interests

Motion: Initiate Investigations

Vote: Carried Unanimously

Excused: Biddle

Case No. 2010-86 – In Re: Alleged Failure to Timely File Campaign Statements

Motion: Initiate Investigation

Vote: Carried Unanimously

Excused: Biddle

Case No. 2010-87 – In Re: Alleged Failure to Include Complete “Paid for By” Disclosure on Campaign Literature

Motion: Initiate Investigation

Vote: Carried Unanimously

Excused: Biddle

Case No. 2010-88 – In Re: Alleged Failure to File Campaign Statements and to Include “Paid for By” Disclosure on Campaign Literature

Motion: Initiate Investigation

Vote: Carried Unanimously

Excused: Biddle

Item-2: Conference with Legal Counsel (24 potential matters)

Case No. 2010-39 – In Re: San Diegans for Accountability at City Hall - Alleged Failure to include “Paid for By” Disclosure on Campaign Literature

Motion: Approve Stipulation

Vote: Carried Unanimously

Recused: O’Neill

Excused: Biddle

Case Nos. 2010-46 through 2010-52, 2010-56 through 2010-59, 2010-64 and 2010-65 – In Re: Alleged Failure to Timely File Statements of Economic Interests

Motion: Dismiss

Vote: Carried Unanimously

Excused: Biddle

Case No. 2010-53 - In Re: Kathy Haynes - Alleged Failure to Timely File Statement of Economic Interests

Motion: Approve Stipulation

Vote: Carried Unanimously

Excused: Biddle

Case No. 2010-54 – In Re: Charles Davis - Alleged Failure to Timely File Statement of Economic Interests

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Biddle

Case No. 2010-55 – In Re: Robert Henderson - Alleged Failure to Timely File Statement of Economic Interests

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Biddle

Case No. 2010-60 – In Re: John Lovio - Alleged Failure to Timely File Statement of Economic Interests

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Biddle

Case No. 2010-61 – In Re: Barbara Ybarra - Alleged Failure to Timely File Statement of Economic Interests

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Biddle

Case No. 2010-62 – In Re: Richard Ybarra - Alleged Failure to Timely File Statement of Economic Interests

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Biddle

Case No. 2010-63 – In Re: Stephen Carter - Alleged Failure to Timely File Statement of Economic Interests

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Biddle

Case No. 2010-42 – In Re: Alleged Failure to File Campaign Statements

Motion: Approve expanded investigation
Vote: Carried Unanimously
Excused: Biddle

Case No. 2010-11 – In Re: Brian Pollard – Alleged Failure to Timely File Campaign Statement and Failure to Include “Paid for By” Disclosure on Campaign Literature

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Biddle

Case No. 2010-43 – In Re: Adrian Vazquez – Alleged Failure to Timely File Campaign Statement

Motion: Approve Stipulation
Vote: Carried Unanimously
Excused: Biddle

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

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

No Reportable Action

Adjournment

The meeting adjourned at approximately 6:15 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.