



**Minutes for Meeting of
Thursday, June 14, 2012**

Item 1: Call to Order

Commission Chair Clyde Fuller called the meeting to order at approximately 5:00 p.m.

Item 2: Roll Call

Present – Commission Chair Fuller, Vice Chair William Howatt, Commissioners Lee Biddle, Deborah Cochran, John O’Neill, and Bud Wetzler

Excused – Commissioner Faye Detsky-Weil

Staff – Executive Director Stacey Fulhorst, General Counsel Christina Cameron, Program Manager Steve Ross, Auditor Rosalba Gomez, and Administrative Aide Jennifer Duarte

Item 3: Approval of Commission Minutes

Approval of Ethics Commission Minutes of April 20, 2012

Motion:	Approved
Moved/Seconded:	O’Neill/Howatt
Vote:	Carried Unanimously
Abstained:	Fuller/Biddle
Excused:	Detsky-Weil

Item 4: Non-Agenda Public Comment

None

Item 5: Commissioner Comment

None

Item 6: Executive Director Comment

None

Item 7: General Counsel Comment

None

Item 8: Election of Chair and Vice Chair

Motion: Elect Commissioner Fuller as Chair and Commissioner
Howatt as Vice Chair
Moved/Seconded: Wetzler/O'Neill
Vote: Carried Unanimously
Excused: Detsky-Weil

Item 9: Proposed Amendments to Campaign Laws and Lobbying Laws

The Commissioners discussed the various options set forth in the draft Municipal Code amendments prepared by staff and made the following decisions:

Decision Point 1

Director Fulhorst summarized the amendment options and recommended that the Commission modify local law to be harmonious with state law, and to prevent any confusion for the regulated community.

Motion: Select Option B: the "paid for by" disclosure is required only when a committee makes 500 or more similar advocacy/polling calls
Moved/Seconded: Wetzler/Cochran
Vote: Carried Unanimously
Abstained: O'Neill
Excused: Detsky-Weil

Decision Point 2

Motion: Select Option B: contributions must be deposited within 40 calendar days (the approximate equivalent of 30 business days)
Moved/Seconded: Fuller/Howatt
Vote: Carried Unanimously
Excused: Detsky-Weil

Decision Point 3

Motion: Select Option C: eliminate requirement that non-deposited contributions be returned to the contributors
Moved/Seconded: O'Neill/Howatt
Vote: Carried Unanimously
Excused: Detsky-Weil

Decision Point 4

Motion: Select Option B: expand the third pre-election filing requirement to apply to all City recipient committees, including primarily formed ballot measure committees and City general purpose committees
Moved/Seconded: Howatt/O'Neill
Vote: Carried Unanimously
Excused: Detsky-Weil

Decision Point 5

Motion: Select Option B: allow committees to amend accrued expense disclosure on third pre-election filings within 30 days of filing deadline without penalty
Moved/Seconded: Howatt/O'Neill
Vote: Carried Unanimously
Excused: Detsky-Weil

Decision Point 6

Director Fulhorst referred to the chart of contribution limits in the 15 largest cities and noted that Los Angeles recently increased its contribution limits from \$500 and \$1,000 to \$700 and \$1,300 for district and citywide candidates. She also reminded the Commission that Professor Thad Kousser's research indicated that the average spending in a mayoral election is approximately four times the amount of the average spending in a district election. As a result, Professor Kousser recommended a four to one differential in the contribution limit for political parties to district and citywide candidates.

Commissioner O'Neill asked several questions about indexing for inflation. Director Fulhorst explained that the current indexing provisions in the law would apply to the recommended increase for citywide candidates, and that the indexing provisions include a rounding factor to the nearest \$50. She added that indexing occurs every two years.

Commissioner O'Neill commented that he disagrees with Professor Kousser's perspective that a citywide candidate has a much bigger pool of potential contributors. He submitted that the Commission should consider the impact a

contribution has in a district election versus a citywide election. Because a dollar goes further in a district election than a citywide election, he believes the contribution limit should be doubled for City candidates.

Commissioner Howatt noted that this suggestion would mirror the limits in San Jose.

Commissioner Biddle stated that he had no objection to Commissioner O'Neill's recommendation because a \$1,000 contribution would have much less significance in a citywide election than a district election when the overall cost to run for office is taken into consideration.

Commissioner Wetzler questioned whether a \$1,000 limit for citywide candidates would affect Judge Gonzales' view of the recommended limits for political party contributions. Ms. Cameron responded that the recommended limit of \$12,000 for political party contributions to citywide candidates would fall within the range of acceptable multipliers upheld by courts in other cases.

Motion: Select Option B: increase contribution limit for citywide candidates to \$1,000
Moved/Seconded: O'Neill/Howatt
Vote: Carried Unanimously
Excused: Detsky-Weil

Decision Point 7

Direct Fulhorst recommended changes to the current law that limits cash contributions to \$99 in order to clarify that the limit applies per election, and not per transaction (which would effectively defeat the purpose of the limit).

Motion: Select Option B: limit contributors to \$99 cash per election
Moved/Seconded: Wetzler/Howatt
Vote: Carried Unanimously
Excused: Detsky-Weil

At approximately this point during the Commission's deliberations, William Moore, counsel to the San Diego Democratic Party, arrived at the meeting and the Chair invited him to offer his comments on Decision Points 8 through 14. He stated that the Democratic Party supports lifting the ban on contributions from sole proprietorships (Decision Point 8). He further expressed support for: Option A under Decision Point 9; Option C under Decision Point 10; Option B under Decision Point 11 (without specifying a particular size); Option B under Decision Point 12; Option B under Decision Point 13; and Option A under Decision Point 14.

Decision Point 8

Director Fulhorst reminded the Commissioners that April Boling asked them to consider lifting the ban on contributions from sole proprietorships under the theory that sole proprietorships are treated no differently under the law than and an individual. Ms. Fulhorst reported that staff further researched the relevant laws and determined that single member limited liability companies may choose between being a corporation or a “disregarded entity.” If they elect not to be a corporation, then federal campaign laws treat them as individuals.

Commissioner Wetzler noted that the Commission previously received input indicating that sole proprietors frequently have only one checking account for both business and personal purposes, and he asked if the same is true for single member LLCs.

Commissioner O’Neill commented that he found it difficult to distinguish between a single member LLC and a single shareholder corporation.

William Moore with the Democratic Party advised the Commissioners that he provides advice to many small businesses as part of his law practice. He noted that sole proprietors are permitted to treat their business accounts as their personal funds, whereas the owners of limited liability companies and corporations are not permitted to do so.

Motion: Select Option B: lift ban on contributions from sole proprietors and treat them as individuals for reporting purposes
Moved/Seconded: Biddle/O’Neill
Vote: Carried 5-1 (Howatt voted nay)
Excused: Detsky-Weil

Decision Point 9

Motion: Section Option A: no written verification required from sole proprietorships
Moved/Seconded: Biddle/Wetzler
Vote: Carried 4-2 (Cochran and Howatt voted nay)
Excused: Detsky-Weil

Decision Point 10

Motion: Select Option C: eliminate requirement that unlawful contributions that are not deposited be returned to the contributors
Moved/Seconded: O’Neill/Cochran
Vote: Carried 5-1 (Howatt voted nay)
Excused: Detsky-Weil

Decision Point 11

Director Fulhorst reminded the Commission that the staff is currently unable to advise committees which types and sizes of signs, other than traditional billboards, require a “paid for by” disclosure. She recommended that the Commission set a square footage threshold, and noted that mobile billboards are typically 50 to 86 square feet. She also noted that the law only applies to candidates and political committees, and would therefore not apply to a sign made by a group of grassroots volunteers.

Commissioner Howatt noted that a standard piece of plywood is 32 square feet, and suggested that a 30 square foot threshold would be appropriate.

Motion: Select Option B: expand the billboard advertising rules to include any other large forms of advertising that are 30 square feet or larger
Moved/Seconded: Howatt/O’Neill
Vote: Carried 5-1 (Biddle voted nay)
Excused: Detsky-Weil

Decision Point 12

Director Fulhorst reminded the Commission that there is a state law pending that would require the disclosure of major donors of \$10,000 or more on advertisements supporting or opposing local and state candidates; however, in the event that this legislation is not approved before the 2014 election cycle, the Commission might want to recommend amendments to local law to ensure that some type of major donor disclosure is required for local candidate advertisements.

Commissioner O’Neill asked if the pending state law would require the identification of all donors of \$10,000 or more. Director Fulhorst responded that the law would require the names of the top three donors on an advertisement, as well as a website address where the additional major donors would be identified. Commissioner O’Neill expressed his opinion that a \$10,000 threshold for major donor disclosures on local candidate ads would be appropriate because the committees would only be required to identify the top two major donors.

Motion: Select Option B: require primarily formed candidate committees to identify the top two donors of \$10,000 or more on advertisements supporting or opposing City candidates
Moved/Seconded: O’Neill/Biddle
Vote: Carried Unanimously
Excused: Detsky-Weil

Decision Point 13

Motion: Select Option A: no changes to current law (a primarily formed candidate committee will not be required to include the economic interests of its major donors in its committee name)
Moved/Seconded: O'Neill/Howatt
Vote: Carried Unanimously
Excused: Detsky-Weil

Decision Point 14

Motion: Select Option B: amend the Lobbying Ordinance to require the disclosure of contributions provided to, and fundraising performed for, committees primarily formed to support or oppose City candidates
Moved/Seconded: Howatt/Biddle
Vote: Carried Unanimously
Excused: Detsky-Weil

Item 10: Adjourn to Closed Session.

Commission Chair Fuller adjourned the meeting to closed session at approximately 6:45 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 Fuller called the meeting back into open session at approximately 7:15 p.m.

Reporting Results of Closed Session Meeting of June 14, 2012

Ms. Cameron reported the results of the closed session meeting of June 14, 2012:

Item-1: Conference with Legal Counsel (7 potential matters)

Case No. 2012-19 - In Re: Alleged Failure to Timely File Campaign Statements

Motion: Dismiss
Moved/Seconded: O'Neill/Biddle
Vote: Carried Unanimously
Excused: Detsky-Weil

Case No. 2012-20 - In Re: Alleged Failure to Include Proper Identification Disclosure on Mass Campaign Literature

Motion: Initiate Investigation
Moved/Seconded: O'Neill/Howatt
Vote: Carried Unanimously
Excused: Detsky-Weil

Case No. 2012-21 - In Re: Alleged Failure to Include Proper Identification Disclosure on Mass Campaign Literature

Motion: Dismiss
Moved/Seconded: O'Neill/Wetzler
Vote: Carried 5-1 (Howatt Opposed)
Excused: Detsky-Weil

Case No. 2012-22 - In Re: Alleged Failure to File Campaign Statements

Motion: Initiate Investigation
Moved/Seconded: O'Neill/Howatt
Vote: Carried Unanimously
Excused: Detsky-Weil

Case No. 2012-23 - In Re: Alleged Failure to Include Proper Identification Disclosure on Mass Campaign Literature

Motion: Initiate Investigation
Moved/Seconded: O'Neill/Wetzler
Vote: Carried Unanimously
Excused: Detsky-Weil

Case No. 2012-24 - In Re: Alleged Failure to Include Proper Identification Disclosure on Mass Campaign Literature

Motion: Initiate Investigation
Moved/Seconded: Biddle/Cochran
Vote: Carried Unanimously
Excused: Detsky-Weil

Case No. 2012-25 - In Re: Alleged Failure to Include Proper Identification Disclosure on Mass Campaign Literature

Motion: Dismiss
Moved/Seconded: Howatt/O'Neill
Vote: Carried Unanimously
Excused: Detsky-Weil

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

Case No. 2011-78 - In Re: Alleged Acceptance of Contribution from Organization

Motion: Dismiss
Moved/Seconded: O'Neill/Howatt
Vote: Carried Unanimously
Excused: Detsky-Weil

Case No. 2012-07 - In Re: Alleged Failure to Timely Pay Vendor Debts

Motion: Dismiss
Moved/Seconded: Wetzler/Cochran
Vote: Carried Unanimously
Excused: Detsky-Weil

Case No. 2012-18 - In Re: Alleged Failure to Include Proper Identification Disclosure on Mass Campaign Literature

No reportable action

Item 3: Personnel Matter

No reportable action

Adjournment

The meeting adjourned at approximately 7:30 p.m.

[REDACTED]

Clyde Fuller, Commission Chair
Ethics Commission

[REDACTED]

Jennifer Duarte, Administrative Aide
Ethics Commission

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