



**Minutes for Meeting of
Thursday, August 9, 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, Faye Detsky-Weil, John O’Neill, and Bud Wetzler

Excused – Commissioner Faye Detsky-Weil

Staff – Executive Director Stacey Fulhorst, General Counsel Christina Cameron, Outside Counsel Lisa Foster, Program Manager Steve Ross, Senior Investigator Lauri Davis and Auditor Rosalba Gomez

Item 3: Approval of Commission Minutes

Approval of Ethics Commission Minutes of July 12, 2012

Motion: Approve
Moved/Seconded: Howatt/O’Neill
Vote: Carried Unanimously
Excused: Detsky-Weil

Item 4: Non-Agenda Public Comment

None

Item 5: Commissioner Comment

None

Item 6: Executive Director Comment

Director Fulhorst advised the Commission that the Council Committee room may be unavailable for the rest of the calendar year as a result of construction activities to accommodate the Ninth City Council seat.

Item 7: General Counsel Comment

None

Item 8: Proposed Amendments to Campaign Laws and Lobbying Laws

Director Fulhorst explained the changes to the draft amendments prepared by staff since the July Commission meeting. She explained that a new state law that will take effect on January 1, 2013, will prohibit the City from requiring paper filing of a campaign statement if the City also requires electronic filing of the same statement; consequently, the staff has revised SDMC section 27.2931 to correspond to the new state law. In addition, she explained that the state does not allow local jurisdictions to impose any additional restrictions on political party member communications; as a result, the staff recommends deletion of SDMC 27.2930 subsection (b).

Director Fulhorst further explained that staff updated SDMC section 27.2937 to clarify that the newly-proposed limits for political parties and citywide candidates would not be adjusted for inflation until 2015. She also noted that SDMC section 27.2976 was modified to reflect the policy direction provided by the Commission at the last meeting concerning naming requirements for primarily formed committees. Finally, she pointed out that the definition of "City" and the language in SDMC sections 28.2930(c), 27.2938(b)(3), 27.2975(c), and 27.2976(a)(5) were modified to address concerns raised by April Boling at the July Commission meeting.

According to Director Fulhorst, staff received a letter from political treasurer Nancy Haley at 4:30 p.m. She distributed copies of the letter and explained the suggestions made by Ms. Haley concerning the third pre-election filing requirements. In the event that the Commission was interested in incorporating Ms. Haley's suggestions, staff prepared new language for the third pre-election filing requirements that would require committees to file a Form 497 and report all contributions of \$100 or more in lieu of filing a complete Form 460 on the Friday before an election. In addition, the new language includes an option to change the closing date for the third pre-election filing from the Thursday before an election to the Wednesday before an election, to give the treasurers more time to prepare the campaign reports.

Barrett Tetlow with the Republican Party of San Diego County spoke about the third pre-election filing requirement. Although the requirement does not apply to political parties, he explained that the requirement is onerous for their

treasurer and detracts from her other duties during the busy period preceding an election.

Evan McLaughlin with the San Diego and Imperial Counties Labor Council expressed support for the changes proposed by Nancy Haley regarding the third pre-election filing and recommended that additional language be inserted to clarify that the Form 497 due on the Friday before an election would only have to identify contributions that were previously undisclosed. With respect to the proposal to require lobbyists to disclose contributions to committees primarily formed to support City candidates, Mr. McLaughlin expressed his opinion that many lobbyists make contributions to general purpose committees and suggested that the disclosure requirements should include contributions made to political parties.

Political treasurer April Boling expressed support for the recommendation by Ms. Haley to require a Form 497 in lieu of a Form 460 for the third pre-election filing; however, she asked the Commission to reconsider the inclusion of general purpose committees in the third pre-election filing requirement. She explained that some general purpose committees might not be actively supporting or opposing City candidates or measure in the months leading up to an election, and that if they do make an independent expenditure related to a City candidate or measure during the 16-day late period they are already required to file a Form 496 disclosing the independent expenditure and all contributions of \$100 or more received since the last campaign filing.

William Moore with the Democratic Party of San Diego spoke in support of the changes proposed by Ms. Haley concerning the third pre-election filing. He expressed his opinion that general purpose committees should not be excluded from this filing requirement.

Commissioner Wetzler asked the other Commissioners who were present at the time the third pre-election filing requirement was initially adopted if the primary concern was the disclosure of contributions received during the weeks before an election. Commissioner Biddle confirmed that this was the Commission's primary concern at the time.

Commissioner O'Neill asked if staff supported the recommendations made by Ms. Haley and Ms. Boling concerning the third pre-election filing requirement. Director Fulhorst responded that staff supported the filing of a Form 497 in lieu of a Form 460, and also supported changing the closing date from Thursday to Wednesday. She also expressed support for Ms. Boling's suggestion regarding the exclusion of general purpose committees from this filing requirement in light of the fact that any such committee active in the final 16 days before an election would already be required to disclose contributions received when it filed a Form 496 to disclose its independent expenditures.

Motion: Forward proposed amendments to the City Council Rules Committee incorporating the changes to section 27.2930(b) reflected in the new language prepared by staff, deleting “general purpose recipient committee,” inserting “previously undisclosed” before “contributions,” and selecting Option 1 in subsection (b)(1).
Moved/Seconded: O’Neill/Cochran
Vote: Unanimous
Excused: Detsky-Weil

Item 9: Adoption of Commission Calendar for 2013

Motion: Approve
Moved/Seconded: Wetzler/Howatt
Vote: Unanimous
Excused: Detsky-Weil

Item 10: Presentation of Final Audit Report Regarding Protect Fire and Police Services, Yes on Prop D Committee

Motion: Accept Final Audit Report
Moved/Seconded: O’Neill/Howatt
Vote: Unanimous
Excused: Detsky-Weil

Item 11: Discussion and Possible Action Regarding Executive Director Compensation

Special Counsel Lisa Foster explained that earlier this year, a closed session matter was listed on the Commission’s agenda under the wrong Government Code section and was therefore re-noticed for the July Commission meeting, at which time the Chair was provided direction to negotiate with the Executive Director regarding salary and return this month with a report and recommendation for the Commission’s consideration.

Commission Chair Fuller reported that, based upon his negotiations with the Executive Director, he recommended the Commission approve a \$5,000 increase to her annual salary effective as soon as it can be implemented.

Motion: Approve \$5,000 salary increase for Executive Director
Moved/Seconded: Fuller/Howatt
Vote: Unanimous
Excused: Detsky-Weil

Item 12: Adjourn to Closed Session.

Commission Chair Fuller adjourned the meeting to closed session at approximately 6:20 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

Commission Chair Fuller called the meeting back into open session at approximately 6:50 p.m.

Reporting Results of Closed Session Meeting of August 9, 2012

Ms. Cameron reported the results of the closed session meeting of August 9, 2012:

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

Case No. 2012-49 - In Re: Alleged Failure to Properly File Campaign Statements and Alleged Failure to Include Proper Disclosure on Campaign Advertisements

Motion: Initiate Investigation
Moved/Seconded: O'Neill/Cochran
Vote: Unanimous
Excused: Detsky-Weil

Item 2: Conference with Legal Counsel (5 potential matters)

Case No. 2011-09 - In Re: Alleged Misuse of City Position and Alleged Violation of Post Employment Lobbying Laws

No Reportable Action

Case No. 2012-17 - In Re: Alleged Failure to Disclose Economic Interests

Motion: Approve Stipulation
Moved/Seconded: Biddle/O'Neill
Vote: Unanimous
Excused: Detsky-Weil

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

Motion: Expand Investigation
Moved/Seconded: O'Neill/Howatt
Vote: Unanimous
Excused: Detsky-Weil

**Case Nos. 2012-28 and 2012-29 - In Re: Alleged Failure to Timely File
Lobbyist Quarterly Disclosure Report**

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

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

**San Diego Ethics Commission Audit Report: Protect Neighborhood Services
Now, sponsored by SDMEA**

Motion: Accept Final Audit Report
Moved/Seconded: O'Neill/Wetzler
Vote: Unanimous
Excused: Detsky-Weil

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

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

NOTE: Outside Counsel Lisa Foster replaced Christina Cameron as the
Commission's legal counsel

Motion: Dismiss
Moved/Seconded: Wetzler/Biddle
Vote: Unanimous
Excused: Detsky-Weil

Adjournment

The meeting adjourned at approximately 6:55 p.m.

[REDACTED]

Clyde Fuller, Commission Chair
Ethics Commission

[REDACTED]

Stacey Fulhorst, Executive Director
Ethics Commission

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