



**Minutes for Meeting of  
Thursday, April 11, 2013**

**Item 1: Call to Order**

Commission Chair 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

Staff – Executive Director Stacey Fulhorst, General Counsel Christina Cameron, Investigator Lauri Davis, Program Manager Steve Ross, and Administrative Aide Jennifer Duarte

**Item 3: Approval of Commission Minutes**

**Approval of Ethics Commission Minutes of February 14, 2013**

Motion:	Approved
Moved/Seconded:	O’Neill/Wetzler
Vote:	Carried Unanimously
Abstain:	Fuller, 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**

Ms. Cameron advised the Commission that a recent case in San Jose could impact the scope of the California Public Records Act [PRA]. She noted that the PRA allows the public to request documents maintained by the City, and that historically the scope of the PRA has not included records from personal email accounts that are not maintained by the City of San Diego. In the recent case, however, the Court ordered the City of San Jose to turn over records maintained on personal servers, devices, and accounts belonging to government officials.

Ms. Cameron noted that she expects the San Jose decision will be appealed but wanted to make the Commissioners aware that their personal emails could come within the scope of a PRA response at some point in the future. She reminded the Commissioners that any emails exchanged with staff are already within the scope of PRA because they are stored on City servers.

**Item-8: Guidance Regarding Use of City Resources for Social Media**

Director Fulhorst explained that, during the course of the 2012 election cycle, staff was asked about the use of City resources to access social media accounts that contain campaign-related material. In order to balance the need for elected officials to communicate with constituents via social media with the City's interest in prohibiting the use of City resources for campaign purposes, the staff has formulated proposed guidance in this area and would like the Commission's concurrence before incorporating this guidance into educational materials.

Director Fulhorst noted that the staff memo was distributed to the Commission's "interested persons" lists with a request for feedback, but no responses were received. She added that she also solicited input from two former City Officials who both agreed that the proposed guidance was a reasonable and balanced approach.

Director Fulhorst summarized the proposed guidance outlined in the staff report, which would give City Officials the option of either closely monitoring social media accounts that use City resources in order to remove campaign material, or allowing campaign material on their sites without the use of City resources to maintain or link to these accounts.

Commissioner Wetzler asked if the staff had contacted other municipalities to see how they are handling the social media issue. Ms. Fulhorst confirmed that they did, and that only the City of Los Angeles has adopted regulations in this area. Specifically, she reported that the City of Los Angeles recently amended its Municipal Code to require City Officials to maintain separate accounts for

campaign activity and official business. If a social media account has been used for City business, it may not be used for campaign purposes. In addition, social media accounts designated for a campaign must include a disclosure stating that the account is being used for campaign purposes.

Commissioner Cochran noted that she uses social media sites and explained that account holders can restrict the ability of other users to upload or post material on their sites. She added that, if an official does not know how to restrict access to his or her site, the official should remove any links from the City's website to the social media site. She expressed her view that guidance in this area is important to ensure that the law keeps pace with technology.

Commission Chair Fuller asked how often an official would need to monitor a social media account to identify and remove campaign material. Ms. Fulhorst replied that the determination regarding what is reasonable would ultimately be made by the Commission on a case-by-case basis with respect to enforcement, but she expects the Commission would generally agree that monitoring a site every day or every other day is sufficient.

Commissioner Biddle asked if City Officials would be permitted to import their followers from a social media account used for City business to a social media account used for a campaign. Ms. Fulhorst responded that, under the staff proposal, this would be permitted because the followers are considered a resource maintained by a private company (e.g., Facebook) and not by the City.

Commissioner Biddle asked if elected City Officials are permitted to use email lists developed with City resources for campaign purposes. Ms. Fulhorst replied that they are not permitted to do so because the email lists are stored and maintained on City servers.

Commissioner Fuller asked about requiring City Officials to maintain separate accounts for City business and campaigns. Ms. Fulhorst responded that it is her understanding that social media users would consider it undesirable to have to open a new account with no followers, and that the underlying public policy concerns would be addressed as long as City resources are not used to maintain or link to the accounts when they contain campaign-related material.

Commissioner Cochran noted that, from an enforcement perspective, it would be cleaner to take an approach like Los Angeles.

Commissioner Detsky-Weil commented that it is easy to move from one page to another, and that she believes people would quickly realize there is another account for campaign purposes, and would access it.

Commissioner Biddle opined that the Commission should encourage elected officials to use social media to communicate with large numbers of people.

Simon Mayeski with Common Cause commented that he supports the guidance proposed by staff and does not believe elected officials should be required to open separate accounts for campaign purposes. He added that users who follow a candidate during a campaign would likely want to continue to receive information from the account holder if he or she became an elected official.

Commissioner Howatt noted that he has concerns about enforcement but believes the Commission will handle it on a case-by-case basis. He added that City Officials will have to exercise diligence or risk potential enforcement.

Motion: Adopt Staff Recommendation  
Moved/Seconded: Fuller/O'Neill  
Vote: Carried Unanimously

**Item 9: Adjourn to Closed Session**

Commission Chair Fuller adjourned the meeting to closed session at approximately 5:30 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 6:15 p.m.

**Reporting Results of Closed Session Meeting of April 11, 2013:**

Ms. Cameron reported the results of the closed session meeting of April 11, 2013:

**Item-1: Conference with Legal Counsel (2 potential matters)**

**Case No. 2013-11 - In Re: Alleged Acceptance of Contribution in Excess of Limit**

Motion: Initiate Investigation  
Moved/Seconded: O'Neill/Wetzler  
Vote: Carried Unanimously  
Recused: Fuller

**Case No. 2013-13 - In Re: Alleged Failure to Timely File Campaign Statements**

Motion: Initiate Investigation  
Moved/Seconded: Detsky-Weil/Howatt  
Vote: Carried Unanimously

**Item-2: Conference with Legal Counsel (4 potential matters)**

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

Motion: Approve Stipulation  
Moved/Seconded: Howatt/O'Neill  
Vote: Carried Unanimously

**Case No. 2013-07 - In Re: Alleged Failure to Timely File Campaign Statements, Alleged Acceptance of Unlawful Contribution, and Alleged Contribution Solicitation from City Employees**

Motion: Expand Investigation  
Moved/Seconded: Howatt/Wetzler  
Vote: Carried Unanimously

**Case No. 2013-10 - In Re: Alleged Contribution Solicitation from City Employees**

No reportable action

**Case No. 2013-12 - In Re: Alleged Failure to File Expenditure Lobbyist Quarterly Report**

Motion: Dismiss  
Moved/Seconded: O'Neill/Biddle  
Vote: Carried Unanimously

**Adjournment**

The meeting adjourned at approximately 6:25 p.m.

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Clyde Fuller, Commission Chair  
Ethics Commission

[REDACTED]

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Jennifer Duarte, Administrative Aide  
Ethics Commission

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