

ELECTIONS COMMISSION
Meeting Minutes
March 22, 2010

ROLL CALL

PRESENT: Vice Chair Smith, Commission Members Cosgrove, Louie, and Shepard

ABSENT: Chair de Funiak

STAFF: Senior Deputy City Attorney Lisa Herrick, City Clerk Lee Price, and Deputy City Clerk Michelle Radcliffe

ORDER OF BUSINESS

I. Call to Order

The meeting convened in Special Session at 5:34 p.m.

II. Election of Chair and Vice Chair

This item was deferred to the April meeting.

III. Approval of Minutes

Upon motion by Commissioner Shepard, seconded by Commissioner Louie, and unanimously passed, the Minutes of February 10, 2010 were approved. (Vote: 4-0-1)

IV. Report of the Chair

None.

V. Reports of the Clerk/Attorney

A. Introduction of the Anonymous Complaint Hotline 408-535-ANON

City Clerk Lee Price reported the telephone number for the Anonymous Complaint Hotline has been established and explained she is waiting for equipment to arrive. She agreed to report back at the next meeting.

B. Report on Mayor's Biennial Ethics Review Panel Meeting on February 16, 2010

Senior Deputy City Attorney Lisa Herrick provided an overview of the February 16th meeting by members of the Mayor's Biennial Ethics Review Panel, who met to provide feedback to the Mayor/City Council on four issues referred by the City Council on December 15, 2009 to the Panel and the Elections Commission, in parallel. She advised that the Commission will receive a copy of the memorandum summarizing the Panel's recommendations at the next meeting.

VI. Discussion Items

A. Receive the Subcommittee's report on "Pay to Play Regulations" for certain contractors.

Commissioner Shepard indicated that the subcommittee was continuing their research. This item was continued to the next meeting.

B. Continued discussion about the City Council Referral to consider closing a potential loophole in lobbyist registration and disclosures.

Documents Filed: (1) Letter from Mayor Chuck Reed to the Mayor's Biennial Ethics Review Panel participants dated February 16, 2010 regarding closing a loophole in Lobbyist regulation and disclosure; (2) Email from Gregory Kepferle, CEO, Catholic Charities of Santa Clara County dated February 17, 2010 regarding nonprofit organizations and lobbying regulations; (3) Letter from Rabbi Melanie Aron, Congregation Shir Hadash dated February 11, 2010 regarding nonprofit organizations and lobbying regulations; (4) Letter from Ben Field, Chief of Staff, South Bay Labor Council dated February 18, 2010 regarding the definition of "control" as it relates to nonprofit organizations and lobbying regulations; (5) Email from Skyler Porras, Director, ACLU of Northern California dated March 31, 2010 regarding nonprofit organizations and lobbying regulations; and (6) Notes and options regarding "Closing a Loophole in Lobbyist Registration and Disclosure" by Vice Chair Michael Smith.

Public Comments:

Speaking in opposition to amending the City's lobbying ordinance to add non-profits (501(c)(3) organizations) to those required to register as lobbyists and urging the Commission to reject Mayor Reed's proposed definition of "control" (as it relates to nonprofits): Father Bill Leninger (Interfaith Coalition), Greg Kepferle (Catholic Charities), James Zahradka (Law Foundation of Silicon Valley), Elisa Hopkins (Working Partnerships), Ben Fields (South Bay Labor Council), and Amy Nichols (Sacred Hearts Community Services Agency) . Antonio Guerra, Mayor's Office, provided background information about Mayor Reed's recommendation.

Vice Chair Smith summarized his notes and options as outlined in matrix format. Commission discussion followed.

This item was continued to the next meeting. Commissioners agreed to review the history of the lobbying ordinance amendments proposed by the Blue Ribbon Task Force on Ethics in 2004 before the next meeting.

- C. Based on a referral from the City Council, review the concept of allowing for public comments and debate about items on the Agenda during Orders of the Day even if the City Council is not debating any items during Orders of the Day.

Senior Deputy City Attorney Lisa Herrick summarized the referral and described the Council's process for approving or making changes to the printed agenda under the "Orders of the Day" section of each Regular Council Agenda.

Public Comment:

Ben Field (South Bay Labor Council) spoke in favor of permitting the public to speak on any motion made by a member of the Council under Orders of the Day, whether or not it is debated.

The Commission generally agreed that it would be appropriate to allow public comment on any motion on the floor made to change the printed order of the agenda. The matter was continued to the next meeting for action.

- D. Based on a referral from the City Council, discussion and consideration of amending Council Policy 0-32 to avoid conflicts of interest arising from family relationships.

Senior Deputy City Attorney Lisa Herrick briefly summarized the referral and responded to brief questions from the Commission.

Public Comments:

Ben Field (South Bay Labor Council) criticized the Mayor's proposal as overly broad because it refers to all family relationships and any interest; as well as overtly narrow, noting that relationships other than family can create perceptions of conflicts of interest. He suggested that the Commission consider San Francisco's ordinance as a model for the disclosure of relationships.

Antonio Guerra, Mayor's Office, pointed out that the Mayor's proposal was based on an ordinance in effect in Seattle.

The Commission continued the discussion to the next meeting.

VII. MEETING SCHEDULE AND AGENDA ITEMS—The next Regular Meeting is scheduled for Wednesday, April 14, 2010.

The Commission agreed to consider at the next meeting the following items: (1) election of officers; (2) anonymous complaint hotline update; (3) review of the memorandum from the Mayor's Biennial Ethics Review Panel summarizing the 2/16/10 meeting feedback; (4) action on the Council Referral regarding allowing public comments under Orders of the Day; and 5) continued discussion and possible action on Council Referrals regarding (a) "pay to play regulations", (b) potential loophole in the lobbying ordinance, and (c) avoiding conflicts of interest arising from family relationships.

VIII. PUBLIC COMMENT

City Clerk Lee Price announced that Deputy City Clerk Michelle Radcliffe was leaving the City to accept the position of District Clerk for the Midpeninsula Regional Open Space District.

IX. ADJOURNMENT

The meeting adjourned at approximately : p.m.

MICHAEL SMITH, VICE CHAIR

ATTEST:

LEE PRICE, MMC
CITY CLERK and SECRETARY TO THE COMMISSION