



FAIR POLITICAL PRACTICES COMMISSION

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CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION MINUTES OF MEETING, Public Session

Thursday, August 22, 2013

CALL TO ORDER

Chair Ann Ravel called the meeting to order at 10:00 a.m. at the Fair Political Practices Commission, 428 J Street, Sacramento, CA 95814. Chair Ravel and Commissioners Eric Casher and Tricia Wynne were present, and Commissioner Gavin Hachiya Wasserman was present by telephone. Commissioner Sean Eskovitz was not present.

WELCOME AND CHAIR'S REPORT

Chair Ann Ravel opened the meeting and introduced new Commission secretary, Kelli Breton. The Chair mentioned that Dominique Word has left the position of Commission secretary but is staying within the organization in the Administration Division.

Chair Ravel explained that Commissioner Eskovitz is on vacation and not reachable by phone and will not participate in this meeting in person or via conference call.

Chair Ravel welcomed Richard Hertz and explained that he will be involved in communications, including internet and IT advancements. The Chair also introduced Erin Peth, the new Executive Director of the FPPC, and provided her biographical summary. The Chair stated that although Tina Bass was not present at the meeting, she expressed her thanks for all of Tina's great work during her time as Interim Executive Director.

Chair Ravel congratulated the FPPC Enforcement Division for their swift work last week requiring disclosure by Chris Hansen of his campaign expenditure on the proposed Sacramento Arena Ballot Measure. The Chair specifically thanked Special Investigator Lee Myers, Senior Commission Counsel Dave Bainbridge, and Commission Counsel Milad Dalju for their work on this matter.

Chair Ravel announced the passing of longtime FPPC employee, Bill Marland.

1. Public Comment

Chair Ravel opened the floor for public comment. James Chaffee addressed the Commission regarding the San Francisco Public Library's gift reporting rules. Chair Ravel mentioned that this is an enforcement matter and that the Commission cannot comment on pending enforcement matters.

Ray Hartz, Director of San Francisco Open Government, addressed the Commission regarding San Francisco City Library and Luis Herrera.

Peter Warfield, Executive Director of Library Users Association, addressed the Commission regarding the San Francisco Public Library.

Phillip Ung, of Common Cause, addressed the Commission, welcomed Erin Peth and congratulated Chair Ravel on her nomination to the Federal Election Commission.

PROPOSED CONSENT CALENDAR ITEM 2 - 42

2. Approval of June 2013 Commission Meeting Minutes.

3. Final Approval of Statement of Incompatible Activities.

Chair Ravel opened the floor to the Commission to remove or discuss an item from the Proposed Consent Calendar.

Chair Ravel removed Item 2, Approval of April 2013 Commission Meeting minutes, and Item 3, Final approval of Draft Statements of Incompatible Activities, from the Proposed Consent Calendar.

Commissioner Wasserman referenced his abstention in Item 3 and 4 of the June 2013 minutes. Commissioner Wasserman provided clarification that the purpose of his abstention was due to one of the persons involved in that case having the same last name as Commissioner Wasserman, although there is no relation.

Commissioner Wynne made a motion to amend the minutes, accept the amendment and approve Agenda Items 2 and 3. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Wynne, Casher, Wasserman, and Chair Ravel.

The motion passed 4 to 0.

Public comment was made by Peter Warfield, Library Users Association, regarding the amount of information provided in the minutes by those who make public comments at Commission meetings.

Commissioner Wynne removed Agenda Item 35 from the Consent Calendar.

Commissioner Wasserman removed Agenda Items 5, 17, 27, 28, 29, 30 and 31 from the Consent Calendar.

Commissioner Wasserman made a motion to approve Agenda Items 4, 6-16, 18-26, 32-34, and 36-42. The motion was seconded by Commissioner Wynne.

Ayes: Commissioners Wynne, Casher, Wasserman, and Chair Ravel.

The motion passed 4 to 0.

Influencing Prospective Employment

- 4. In the Matter of Mark Moses, FPPC No. 10/1084. Total Proposed Penalty: \$8,000.**

Commissioner Wasserman removed Agenda Item 5 from the Proposed Consent Calendar.

Conflict of Interest

- 6. In the Matter of Guadalupe "Lupe" Ramos Watson, FPPC No. 12/489. Total Proposed Penalty: \$4,000.**

Campaign Reporting

- 7. In the Matter of Sharon Runner, Sharon Runner for Senate 2011, Sharon Runner for Senate 2012, and Kelly Lawler, FPPC No. 13/083. Total Proposed Penalty: \$8,000.**
- 8. In the Matter of Judith L. Dunlap, Dunlap for Mayor 2010, Dunlap 2009, and Friends to Elect Judy Dunlap, FPPC No. 10/208. Total Proposed Penalty: \$9,500.**
- 9. In the Matter of Rancho Bernardo Democratic Club and Pat Jones, FPPC No. 12/230 (Default Decision). Total Proposed Penalty: \$7,500.**

10. **In the Matter of California Taxpayer Protection Committee and Thomas N. Hudson, FPPC No. 12/106. Total Proposed Penalty: \$5,500.**
11. **In the Matter of Stonewall Democratic Club of Greater Sacramento, William Guy Crouch, and Christopher Welton, FPPC No. 12/103. Total Proposed Penalty: \$5,000.**
12. **In the Matter of League of Placer County Taxpayers and Michael Musolino, FPPC No. 12/949. Total Proposed Penalty: \$4,500.**
13. **In the Matter of William Lee, FPPC No. 12/607. Total Proposed Penalty: \$4,500.**
14. **In the Matter of Javier Sidhu, FPPC No. 12/865. Total Proposed Penalty: \$2,000.**
15. **In the Matter of Ventura County Medical Association PAC and Mary Carr, FPPC No. 13/308. Total Proposed Penalty: \$1,600.**
16. **In the Matter of Bruce Q. Tran and Bruce Tran for Mayor of Westminster 2010, FPPC No. 12/180. Total Proposed Penalty: \$1,000.**

Commissioner Wasserman removed Agenda Item 17 from the Proposed Consent Calendar.

18. **In the Matter of Seven Hills Land and Cattle Company, LL; Reverage Anselmo, FPPC No. 13/238. Total Proposed Penalty: \$800.**
19. **In the Matter of Sutter County Republican Central Committee and Stephen Elliot, FPPC No. 13/535. Total Proposed Penalty: \$600.**
20. **In the Matter of Janan Hebert, FPPC No. 11/1174. Total Proposed Penalty: \$400.**
21. **In the Matter of Maritza R. Molina, FPPC No. 12/741. Total Proposed Penalty: \$200.**
22. **In the Matter of Operative Plasterers and Cement Masons International Association Local 200 PAC, FPPC No. 13/444. Total Proposed Penalty: \$200.**

Lobbying Reporting

- 23. In the Matter of Brencourt Advisors, LLC, FPPC No. 13/122. Total Proposed Penalty: \$2,000.**
- 24. In the Matter of AMN Healthcare, Inc., FPPC No. 13/273. Total Proposed Penalty: \$1,200.**
- 25. In the Matter of California State Student Association, FPPC No. 13/123. Total Proposed Penalty: \$400.**
- 26. In the Matter of California Employment Law Council, FPPC No. 13/397. Total Proposed Penalty: \$400.**

Commissioner Wasserman removed Agenda Items 27-31 from the Proposed Consent Calendar.

Statement of Economic Interest – Non-Reporting

- 32. In the Matter of Evelyn Reeves, FPPC No. 12/794. Total Proposed Penalty: \$200.**

Receipt of Gift Over the Limit

- 33. In the Matter of Jerome Moss, FPPC No. 12/952. Total Proposed Penalty: \$200.**

Statement of Economic Interests – No Filer

- 34. In the Matter of Samuel Moore, FPPC No. 12/354 (Default Decision). Total Proposed Penalty: \$6,000.**

Commissioner Wynne removed Agenda Item 35 from the Proposed Consent Calendar.

- 36. In the Matter of Aurelio Salazar Jr., FPPC No. 12/992. Total Proposed Penalty: \$200.**
- 37. In the Matter of William Jensen, FPPC No. 12/945. Total Proposed Penalty: \$200.**

Mass Mailing

- 38. In the Matter of Election Digest-A Project of The Coalition for Literacy and Tracey Pomerance-Poirer, FPPC No. 13/107. Total Proposed Penalty: \$3,000.**
- 39. In the Matter of Jerald “Jerry” Hyde, FPPC No. 12/927. Total Proposed Penalty: \$2,000.**
- 40. In the Matter of Howard Gustafson, FPPC No. 11/872. Total Proposed Penalty: \$1,000.**

Major Donor

- 41. In the Matter of Cynthia Giumarra, FPPC No. 13/541. Total Proposed Penalty: \$3,799.**
- 42. In the Matter of Salvadore Giumarra, FPPC No. 13/540. Total Proposed Penalty: \$400.**

Influencing Prospective Employment

- 5. In the Matter of Dwain Sanders, FPPC No. 13/094. Total Proposed Penalty: \$4,000.**

Commissioner Wasserman requested and received clarification on this matter.

Commissioner Wynne made a motion to approve Proposed Consent Calendar Item 5. The motion was seconded by Chair Ravel.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

Campaign Reporting

- 17. In the Matter of Sal Torres, Friends of Sal Torres, and Leslie Torres, FPPC No. 13/064. Total Proposed Penalty: \$1,000.**

Commissioner Wasserman requested and received clarification on this matter.

Commissioner Casher made a motion to approve Proposed Consent Calendar Item 17. The motion was seconded by Commissioner Wynne.

The motion passed 4 to 0.

27. In the Matter of Antonio Gonzalez, FPPC No. 13/397. Total Proposed Penalty: \$200.

Commissioner Wasserman requested and received clarification on this matter.

Commissioner Wasserman made a motion to approve Proposed Consent Calendar Item 27. The motion was seconded by Commissioner Wynne.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

Statement of Interest – Non-Reporting

28. In the Matter of Guillermo Marrero, FPPC No. 13/097. Total Proposed Penalty: \$400.

29. In the Matter of Douglas Kearney, FPPC No. 13/096. Total Proposed Penalty: \$400.

30. In the Matter of Carmen Kearney, FPPC No. 13/095. Total Proposed Penalty: \$400.

31. In the Matter of Ruby Beltran, FPPC No. 13/092. Total Proposed Penalty: \$400.

Commissioner Wasserman requested and received clarification on these matters.

Commissioner Wynne made a motion to approve Proposed Consent Calendar Items 28-31. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

Statement of Economic Interests – Non-Filer

35. In the Matter of Jonathan Leone, FPPC No. 11/932. Total Proposed Penalty: \$4,000.

Commissioner Wynne expressed concerns with the amount of the penalty and requested that the maximum penalty be imposed. Commissioner Wasserman stated he is in agreement with Commissioner Wynne's concerns.

Public comment was made regarding this matter by Randi Johl, Legislative Director of the City Clerks Association and the City Clerk for the City of Lodi.

Ray Hartz, Director of Open Government San Francisco, addressed the Commission regarding this matter.

Commissioner Wynne made a motion to adopt the staff recommendation but increase the penalty from \$4,000 to \$10,000. The motion was seconded by Commissioner Wasserman.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

GENERAL ITEMS 43 - 48

43. Assignment of Hearing to Administrative Law Judge ("ALJ") – McGhee: In the Matter of James McGhee (FPPC Case No. 12/321). Staff: Commission Counsel Milad Dalju.

44. Request for Administrative Hearing by Commission – Reed: In the Matter of Charles R. "Chuck" Reed, San José Fiscal Reforms, Mayor Reed, Chamber PAC And Issues Mobilization PAC Proponents, and Benjamin J. Roth (FPPC Case No. 12/761). Staff: Senior Commission Counsel Angela Brereton.

Public Comment was made by Jesse Minardi, of the Sutton Law Firm.

Commissioner Wynne made a motion to approve staff recommendation for Agenda Items 43 and 44. The motion was seconded by Commissioner Wasserman.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

45. Regulation 18421.5: Reporting an Expenditure for Paid Online Communications.

Staff: General Counsel Zackery P. Morazzini and Senior Commission Counsel Heather M. Rowan. Staff proposed that the Commission adopt Regulation 18421.5 to create a more specific and easily identifiable report of when a committee pays a person or group to create online content on behalf of the committee.

Public Comment was made by Steve Maviglio, Co-Publisher of the California Majority Report.

Public Comment was made by Peter Warfield, Executive Director of Library Users Association.

Public Comment was made by Ray Hartz, Director of San Francisco Open Government.

Public Comment was made by Phillip Ung, Common Cause.

The Commission discussed this matter and encouraged staff to continue working on development of the regulation to address specific definitions in the regulation and present it to the Commission at the September 2013 Commission meeting.

46. Regulations 18944, 18950 - 18950.4 and 18727.5: Gift and Travel Payments.

Staff: General Counsel Zackery P. Morazzini and Senior Commission Counsel William J. Lenkeit. Staff proposed to revise and update the gift regulations pertaining to payments made to government agencies, to clarify and simplify the organization of the travel regulations and to make substantive changes to the "personal benefit" language under the definition of gift as it applies to travel payments made for official government business.

Public comment was made by Phillip Ung, Common Cause regarding Regulation 18944.

Commissioner Wynne made a motion to approve staff recommended amendments for Regulation 18944. The motion was seconded by Chair Ravel.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

Commissioner Wynne made a motion to approve staff recommended amendments for Regulation 18950. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

Public Comment was made by Peter Warfield, Executive Director of Library Users Association regarding Regulation 18950.1.

Public comment was made by Marte Castaños, Public Employee Retirement System regarding Regulation 18950.1.

Public comment was made by Shawn Mason, City Attorney of San Mateo and Chair, League of Cities FPPC Committee.

Public comment was made by Stella Ngai, Counsel, University of California.

Commissioner Wynne made a motion to approve staff recommended amendments for Regulation 18950.1. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

Commissioner Wynne made a motion to approve staff recommended amendments for Regulation 18950.2. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

Commissioner Wynne made a motion to approve staff recommended amendments for Regulation 18950.3. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

Commissioner Wynne made a motion to approve staff recommended amendments for Regulation 18950.4 and to rescind Regulation 18950.3. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

Commissioner Wynne made a motion to rescind Regulation 18727.5. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

47. Opinion Request, *In re Riemer*. Staff: General Counsel Zackery P. Morazzini: The Commission was asked by Davis Riemer, a member of the Alameda-Contra Costa Transit District Retirement System, for an exemption from the Act's general requirement that he disclose every source of income on his Statement of Economic Interests, Form 700. Under procedures established in Regulation 18740, the exemption request was tentatively approved by staff and, as required under the regulation, was presented to the Commission for final determination. The Commission considered whether to ratify the tentative decision by issuing an opinion, *In re Riemer*, or whether to order disclosure by Mr. Riemer.

Commissioner Wynne made a motion to approve and adopt staff recommendation and to adopt the formal FPPC opinion. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

48. Ratification of Commission Position on Legislation. Staff: General Counsel Zackery P. Morazzini, Legislative Coordinator Sukhi Brar: The Commission was asked to ratify the action of the Chair to sponsor Assembly Bill 409.

Public comment was made regarding this matter by Randi Johl, Legislative Director for the City Clerks Association and the City Clerk for the City of Lodi.

Commissioner Casher inquired about the fiscal impact of the ratification. Sukhi Brar indicated that ideally the costs would be absorbed in the current budget.

Commissioner Wynne inquired about the Secretary of State's position on Assembly Bill 409. Chair Ravel indicated this is not within the purview of the Secretary of State.

Commissioner Wasserman made a motion to approve Agenda item 48. The motion was seconded by Commissioner Wynne.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

EXECUTIVE STAFF REPORTS ITEM 49

Executive Director/Administrative Division Report. Staff: Interim Executive Director, Tina Bass

Legislative Report. Staff: Legislative Coordinator, Sukhi Brar

Litigation Report. Staff: General Counsel, Zackery P. Morazzini

Legal Division Report. Staff: General Counsel, Zackery P. Morazzini

Enforcement Division Report. Staff: Chief of Enforcement, Gary Winuk

Technical Assistance Division Report. Staff: Chief of TAD, Lynda Cassady

Legislative Report. Staff: Legislative Coordinator, Sukhi Brar

Legal Division Report. Staff: General Counsel, Zackery P. Morazzini

Technical Assistance Division Report. Staff: Chief of Technical Assistance Division, Lynda Cassady

Legislative Coordinator, Sukhi Brar declared the Legislative report “as submitted.”
General Counsel Zackery Morazzini declared the Legal Division report “as submitted.”
TAD Chief Lynda Cassady declared the TAD report “as submitted.”

General Counsel Zackery Morrazzini addressed the Commission informing them that the 9th Circuit has set oral arguments in Protectmarriage.com vs. Bowen regarding the constitutionality of the FPPC’s disclosure laws. FPPC will be sharing oral argument with the City of San Francisco in defense of FPPC statutes on October 11, 2013 in San Francisco. Zackery Morrazzini declared the reports as submitted.

Public Comment was made by Phillip Ung of Common Cause. Mr. Ung requested to be notified of the time of the hearing so he could attend in support.

Commissioner Casher made a motion to accept the Legal Division report. The motion was seconded by Commissioner Wynne.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

Commissioner Wynne made a motion to accept all other reports in Agenda item 49. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

Commissioner Wynne inquired about Assembly Bill 1090 to see if the Attorney General's Office has taken a position on the matter. Zackery Morrazini replied that the Attorney General's Office has not taken a position.

Chair Ravel opened the floor to the Commission. Commissioner Wynne made a motion to adjourn. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Casher, Wasserman and Wynne, and Chair Ravel.

The motion passed 4 to 0.

The meeting adjourned at 1:35 p.m.

Respectfully submitted,

Dated:

Kelli Breton
Commission Assistant

Approved September 6, 2013

Ann Ravel, Chair
Fair Political Practices Commission