

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Commission Meeting
Monday, March 4, 2013
Mayor's Caucus Room (3rd Floor)
3:00 p.m.



Commissioners: Lloyd Farnham (Chair), Aspen Baker (Vice-Chair), Roberta Johnson, Benjamin Kimberley, Monique Rivera, Eddie Tejada, Jenna Whitman

Commission Staff: Whitney Barazoto, Executive Director
City Attorney Staff: Kathleen Salem-Boyd, Deputy City Attorney

The Commission's regular meeting on March 4, 2013, is canceled.
Instead, the Commission will hold a special meeting beginning at 3:00pm
in the Mayor's Caucus Room on the 3rd Floor of City Hall.

SPECIAL MEETING AGENDA

- 1. Establish a Quorum**
- 2. Open Forum**
- 3. Public Ethics Commission Retreat.** The Commission will participate in a retreat that focuses on the organizational needs of the Commission and its members. Retreat activities will include the following:
 - a. Review the Commission's authority and governing laws (Attachment 1 – PEC Responsibilities) (Attachment 2 – PEC Enabling Authorities)
 - b. Discuss the role of the Commission within the structure and environment of Oakland City government
 - c. Create a compliance model that articulates the Commission's approach to ensuring compliance with ethics and campaign finance laws
 - d. Brainstorm and explore organizational strengths, weaknesses, opportunities, and threats (Attachment 3 – PEC Organizational Chart)
 - e. Discuss the status of 2012-13 priorities and outline priority areas and projects to focus Commission work in 2013-14 (Attachment 4 – PEC Goals for 2012-13)

The meeting will adjourn upon the completion of the Commission's business.

A member of the public may speak on any item appearing on the agenda. All speakers will be allotted a maximum of three minutes unless the Chairperson allocates additional time.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in the meetings of the Public Ethics Commission or its Committees, please contact the

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Office of the City Clerk (510) 238-7370. Notification two full business days prior to the meeting will enable the City of Oakland to make reasonable arrangements to ensure accessibility.

Should you have questions or concerns regarding this agenda, or wish to review any agenda-related materials, please contact the Public Ethics Commission at (510) 238-3593 or visit our webpage at www.oaklandnet.com/pec.



2/22/13

Approved for Distribution

Date

Public Ethics Commission Responsibilities

Oakland Municipal Code requires the City Manager to provide the Commission with staff assistance as necessary to permit the Commission to fulfill the following functions and duties:

- A. Oversee compliance with the city Campaign Reform Ordinance.
- B. Oversee compliance with the city Code of Ethics.
- C. Oversee compliance with conflict of interest regulations as they pertain to city elected officials, officers, employees, and members of boards and commissions.
- D. Oversee the registration of lobbyists in the city should the City Council adopt legislation requiring the registration of lobbyists.
- E. Oversee compliance with any ordinance intended to supplement the Brown Act or Public Records Act.
- F. Review all policies and programs which relate to elections and campaigns in Oakland, and report to the City Council regarding the impact of such policies and programs on city elections and campaigns.
- G. Make recommendations to the City Council regarding amendments to the city Code of Ethics, Campaign Reform Ordinance, Conflict of Interest Code, any ordinance intended to supplement the Brown Act or Public Records Act, and lobbyist registration requirements should the City Council adopt lobbyist registration legislation, and submit a formal report to the City Council every two years concerning the effectiveness of all local regulations and local ordinances related to campaign financing, conflict of interest, lobbying, the Brown Act, the Public Records Act, and public ethics.
- H. Set compensation for the office of City Councilmember which shall be reviewed by the Commission and adjusted as appropriate, in odd-numbered years. In 1997, the Commission shall first establish a base salary for the Office of Councilmember at a level which shall be the same or greater than that which is currently received. Thereafter, the Commission shall fix City Councilmember compensation at a level not to exceed ten percent above the base salary as adjusted.
- I. Each year, and within the time period for submission of such information for the timely completion of the city's annual budget, provide the City Council with an assessment of the Commission's staffing and budgetary needs.
- J. Make recommendations to the City Council regarding the imposition of fees to administer and enforce local ordinances and local regulations related to campaign financing, conflict of interest, registration of lobbyists, supplementation of the Brown Act and Public Records Act and public ethics.
- K. Make recommendations to the City Council regarding the adoption of additional penalty provisions for violation of local ordinances and local regulations related to campaign financing, conflict of interest, registration of lobbyists, and public ethics.
- L. Issue oral advice and formal written opinions, in consultation with the City Attorney when necessary, with respect to a person's duties pursuant to applicable campaign financing, conflict of interest, lobbying, and public ethics laws.
- M. Prescribe forms for reports, statements, notices, and other documents related to campaign financing, conflict of interest, lobbying, and public ethics.
- N. Develop campaign financing, conflict of interest, lobbying, Brown Act, Public Records Act and public ethics informational and training programs, including but not limited to:
 1. Seminars, when appropriate, to familiarize newly elected and appointed officers and employees, candidates for elective office and their campaign treasurers, lobbyists, and government officials, with city, state and federal laws related to campaign financing, conflicts of interest, the Public Records Act, the Brown Act, lobbying, and public ethics.
 2. Preparation and distribution of manuals to include summaries of ethics laws and reporting requirements applicable to city officers, members of boards and commissions, and city employees, methods of bookkeeping and records retention, instructions for completing required forms, questions and answers regarding common problems and situations, and information regarding sources of assistance in resolving questions. The manual shall be updated when necessary to reflect changes in applicable city, state and federal laws related to campaign financing, conflicts of interest, lobbying, and public ethics.
- O. Perform such other functions and duties as may be prescribed by the Oakland Code of Ethics, conflict of interest regulations, ordinances as they may be adopted to supplement the Brown Act and the Public Records Act or to require the registration of lobbyists in the city and Campaign Reform Ordinance.

(Ord. 11961 § 2, 1997)

**Public Ethics Commission
Enabling Authorities**

**Charter of the City of Oakland
Article II. – The Council**

Section 202. Public Ethics Commission; Council Salaries. (a) There is hereby established a Public Ethics Commission which shall be responsible for responding to issues with regard to compliance by the City of Oakland, its elected officials, officers, employees, boards and commissions with regard to compliance with City regulations and policies intended to assure fairness, openness, honesty and integrity in City government including, Oakland's Campaign Finance Reform Ordinance, conflict of interest code, code of ethics and any ordinance intended to supplement the Brown Act, and to make recommendations to the City Council on matters relating thereto, and it shall set City Councilmember compensation, as set forth herein.

(b) The members of the Public Ethics Commission shall consist of seven (7) members who shall be Oakland residents.

(1) Initial appointments. The first seven members of the Commission shall be appointed as follows: Three (3) members who represent local civic organizations with a demonstrated history of involvement in local governance issues shall be nominated for appointment by the Mayor and confirmed by the City Council; and four (4) members shall be appointed following a public recruitment and application following a public recruitment and application process, by the unanimous vote of the three (3) representatives appointed by the City Council. The four (4) members so appointed shall reflect the interest of the greater Oakland neighborhood and business communities.

(2) Subsequent Mayoral appointments. A vacancy in any of the three (3) positions nominated for appointment by the Mayor and confirmed by the City Council shall be filled in the same manner and upon consideration of the same criteria as for the initial Mayoral appointments.

(3) Subsequent Non-Mayoral appointments. A vacancy in any of the four (4) positions initially selected by the unanimous vote of the three (3) Mayoral appointments shall be filled, following a public recruitment and application process, by a candidate who receives the affirmative vote of at least four (4) members of the Commission. Any member so appointed shall reflect the interests of the greater Oakland neighborhood and business communities.

(4) Staggered Terms. Both categories of member shall be appointed to staggered terms.

(5) Functions, duties, powers, jurisdiction and terms. The City shall by ordinance prescribe the function, duties, powers, jurisdiction and the terms of members of the Commission, in accordance with this Article.

(c) Beginning with Fiscal Year 2003-2004, the Public Ethics Commission shall annually adjust the salary for the office of Councilmember by the increase in the consumer price index over the preceding year. The Commission may adjust salaries beyond the increase in the consumer price index up to a total of five percent. Any portion of an increase in compensation for the office of Councilmember that would result in an overall increase for that year in excess of five percent must be approved by the voters.

Oakland Municipal Code of Ordinances
Chapter 2.24 – Public Ethics Commission

2.24.010 - Creation.

Oakland City Charter Section 202 has established the Public Ethics Commission.

2.24.020 - Functions and duties.

It shall be the function and duty of the Public Ethics Commission, for and on behalf of the city, its elected officials, officers, employees, boards and commissions:

- A. Oversee compliance with the city Campaign Reform Ordinance.
- B. Oversee compliance with the city Code of Ethics.
- C. Oversee compliance with conflict of interest regulations as they pertain to city elected officials, officers, employees, and members of boards and commissions.
- D. Oversee the registration of lobbyists in the city should the City Council adopt legislation requiring the registration of lobbyists.
- E. Oversee compliance with any ordinance intended to supplement the Brown Act or Public Records Act.
- F. Review all policies and programs which relate to elections and campaigns in Oakland, and report to the City Council regarding the impact of such policies and programs on city elections and campaigns.
- G. Make recommendations to the City Council regarding amendments to the city Code of Ethics, Campaign Reform Ordinance, Conflict of Interest Code, any ordinance intended to supplement the Brown Act or Public Records Act, and lobbyist registration requirements should the City Council adopt lobbyist registration legislation, and submit a formal report to the City Council every two years concerning the effectiveness of all local regulations and local ordinances related to campaign financing, conflict of interest, lobbying, the Brown Act, the Public Records Act, and public ethics.
- H. Set compensation for the office of City Councilmember which shall be reviewed by the Commission and adjusted as appropriate, in odd-numbered years. In 1997, the Commission shall first establish a base salary for the Office of Councilmember at a level which shall be the same or greater than that which is currently received. Thereafter, the Commission shall fix City Councilmember compensation at a level not to exceed ten percent above the base salary as adjusted.
- I. Each year, and within the time period for submission of such information for the timely completion of the city's annual budget, provide the City Council with an assessment of the Commission's staffing and budgetary needs.
- J. Make recommendations to the City Council regarding the imposition of fees to administer and enforce local ordinances and local regulations related to campaign financing, conflict of interest, registration of lobbyists, supplementation of the Brown Act and Public Records Act and public ethics.
- K. Make recommendations to the City Council regarding the adoption of additional penalty provisions for violation of local ordinances and local regulations related to campaign financing, conflict of interest, registration of lobbyists, and public ethics.

L. Issue oral advice and formal written opinions, in consultation with the City Attorney when necessary, with respect to a person's duties pursuant to applicable campaign financing, conflict of interest, lobbying, and public ethics laws.

M. Prescribe forms for reports, statements, notices, and other documents related to campaign financing, conflict of interest, lobbying, and public ethics.

N. Develop campaign financing, conflict of interest, lobbying, Brown Act, Public Records Act and public ethics informational and training programs, including but not limited to:

1. Seminars, when appropriate, to familiarize newly elected and appointed officers and employees, candidates for elective office and their campaign treasurers, lobbyists, and government officials, with city, state and federal laws related to campaign financing, conflicts of interest, the Public Records Act, the Brown Act, lobbying, and public ethics.

2. Preparation and distribution of manuals to include summaries of ethics laws and reporting requirements applicable to city officers, members of boards and commissions, and city employees, methods of bookkeeping and records retention, instructions for completing required forms, questions and answers regarding common problems and situations, and information regarding sources of assistance in resolving questions. The manual shall be updated when necessary to reflect changes in applicable city, state and federal laws related to campaign financing, conflicts of interest, lobbying, and public ethics.

O. Perform such other functions and duties as may be prescribed by the Oakland Code of Ethics, conflict of interest regulations, ordinances as they may be adopted to supplement the Brown Act and the Public Records Act or to require the registration of lobbyists in the city and Campaign Reform Ordinance.

In prescribing the above duties and functions of the Commission, it is not the intent of the Council to duplicate or overlap the functions, duties, or responsibilities heretofore or hereafter assigned to any other city board or commission or to a city department. As to such functions or responsibilities of another board or commission or of a department of the city, the Commission will render assistance and advice to such board, commission or department as may be necessary. Nothing in this section shall be construed to prevent city officers, employees, and elected or appointed officials from seeking advice directly from the City Attorney, or, when appropriate, the Fair Political Practices Commission, concerning regulations and ordinances related to campaign financing, conflicts of interest, lobbying, and public ethics.

2.24.030 - Authority.

In furtherance of the above enumerated duties and functions, the Oakland Public Ethics Commission is authorized to:

A. Conduct investigations, audits and public hearings.

B. Issue subpoenas to compel the production of books, papers and documents and take testimony on any matter pending before the Commission. The Commission may find a person in contempt as provided by the general law of the state for

failure or refusal to appear, testify, or to produce required books, papers and documents.

C. Impose penalties and fines as provided for by ordinance. The Commission's decision to impose penalties and fines for violation of any regulation or ordinance over which the Commission has authority shall be appealable to a mutually agreed upon arbitrator whose decision shall be final. The decision of the arbitrator is not appealable to the City Council.

2.24.040 - Composition—Terms of office.

A. The Oakland Public Ethics Commission shall consist of seven members. The Commission shall be appointed as follows: Three members who represent local civic organizations with a demonstrated history of involvement in local governance issues shall be nominated for appointment by the Mayor, with confirmation by the City Council, pursuant to Section 601 of the City Charter. Four members shall be appointed, following a public recruitment and application process by the unanimous vote of the three representatives appointed by the Mayor with confirmation by the City Council. The four members so appointed shall reflect the interests of the greater Oakland neighborhood and business communities. Commissioners shall serve without compensation. Prior to appointment of a Commission member or members, by the Mayor, each member of the City Council may provide the Mayor with a list of up to three individuals qualified by experience and background to serve on the Commission. In appointing members to the Commission, the Mayor shall consider the recommendations of the City Council.

B. Four members shall constitute a quorum.

C. Members of the Commission shall be appointed to overlapping terms, to commence upon date of appointment, except that an appointment to fill a vacancy shall be for the unexpired term only. Members of the Commission shall serve for a term of three years, except that for terms commencing immediately preceding adoption of the ordinance codified in this chapter, two members shall be appointed for a one-year term, two members shall be appointed for a two-year term, and three members shall be appointed for a three-year term. No member may serve more than one consecutive three-year term.

D. A vacancy on the Commission will exist whenever a member dies, resigns, or is removed, or whenever an appointee fails to be confirmed by the Council within fourteen (14) days of appointment. A vacancy shall be filled no sooner than thirty (30) days and no later than sixty (60) days from the date that such vacancy occurs. Any member of the City Council who chooses to recommend a person or persons to fill a vacancy of a position appointed by the Mayor and confirmed by the City Council pursuant to subsection A of this section shall forward such recommendation to the Mayor for consideration no later than thirty (30) days from the date that a vacancy occurs.

E. A member appointed by the Mayor may be removed pursuant to Section 601 of the Charter. A member appointed by the unanimous vote of the three members appointed by the Mayor and confirmed by the Council may be removed by the unanimous vote of the three members appointed by the Mayor and confirmed by the Council. Among other things, conviction of a felony, misconduct, incompetence, inattention to or inability to perform duties, or absence from three consecutive regular meetings except on account of illness or when absent from the city by permission of the Commission, shall constitute cause for removal.

2.24.050 - Qualifications.

Each member of the Commission shall be a resident of Oakland and registered to vote in Oakland elections. During his or her tenure, and for one year thereafter, no member of the Commission shall:

- A. Be employed by the city or have any direct and substantial financial interest in any work or business or official action by the city.
- B. Seek election to any other public office, or participate in or contribute to an Oakland municipal campaign.
- C. Endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election.

2.24.060 - Election of chairperson and meetings.

At the first regular meeting of each year the members shall elect a chairperson and a vice-chairperson. The Commission shall hold regular meetings at an established time and place suitable for its purpose. Other meetings scheduled for a time or place other than for regular meetings shall be designated special meetings. Written notice of special meetings shall be provided the members, the Council, and the public press at least seventy-two (72) hours before the meeting is scheduled to convene.

2.24.070 - Rules, regulations and procedures.

The Commission shall establish rules, regulations and procedures for the conduct of its business by a majority vote of the members present. The Commission must vote to adopt any motion or resolution. The Commission shall transmit to the City Council any rules, regulations and procedures adopted by the Commission within seven calendar days of adoption. A rule, regulation or procedure adopted by the Commission shall become effective sixty (60) days after the date of adoption by the Commission unless before the expiration of this sixty (60) day period two-thirds of all the members of the City Council vote to veto the rule, regulation or procedure.

2.24.080 - Staff assistance.

The City Manager, or designees thereof, shall provide the Commission with staff assistance as necessary to permit the Commission to fulfill the functions and duties as set forth above.

2.24.090 - Legal assistance.

The City Attorney is the Commission's legal advisor. The City Attorney shall provide the Commission with legal assistance, to the extent such assistance does not constitute a conflict. In the event of a conflict, the City Attorney shall retain outside counsel.

2.24.100 - Protection against retaliation.

A. No officer or employee of the city shall use or threaten to use any official authority or influence to effect any action as a reprisal against a city officer or employee for acting in good faith to report or otherwise bring to the attention of the Commission or other

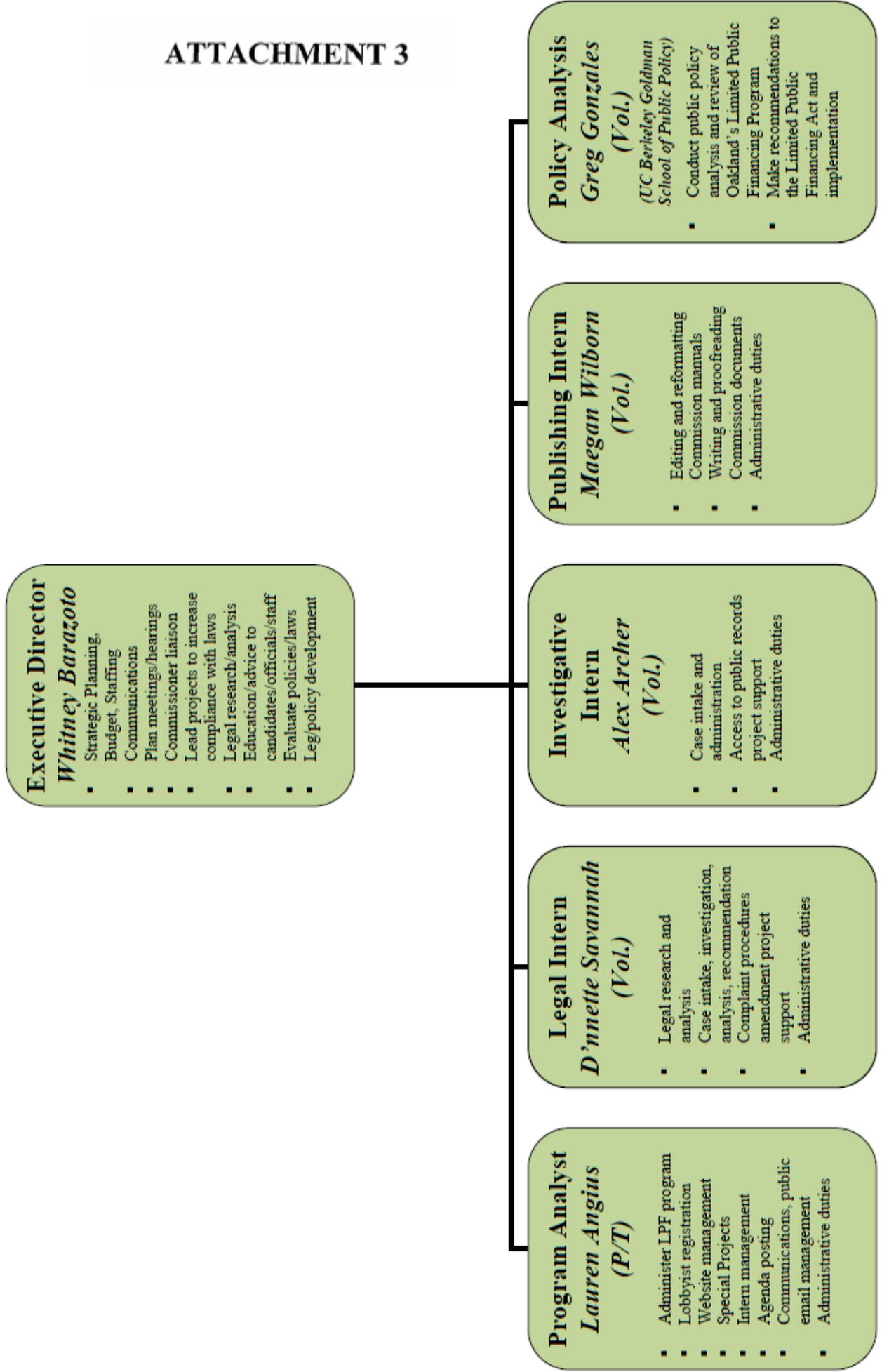
appropriate agency, office or department, information regarding the violation of any regulation or ordinance over which the Commission has authority.

B. No officer or employee of the city shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the Commission or other appropriate agency, office or department, information regarding the violation of any regulation or ordinance over which the Commission has authority.

Public Ethics Commission – Organizational Chart

Current Staffing, With Volunteers - 2013

ATTACHMENT 3



Public Ethics Commission Goals for 2012-13

Staffing

1. Expand Commission staff capacity in order to help accomplish Commission goals
 - a. Hire part-time staff or interns by July 2012 to ensure staff coverage through September and October 2012
 - b. Create internship program and fill positions beginning in Spring 2013
 - c. Draft organizational assessment of program and staffing needs for FY 2013-14 budget process (Jan-Feb 2013)

Limited Public Financing Act

2. Ensure effective implementation of the Limited Public Financing (LPF) program for the 2012 election
 - a. Update LPF manual and forms
 - b. Institute new tracking systems to ensure all program requirements are met and payments made according to the law
3. Evaluate the effectiveness of the LPF program from both a policy and administrative perspective
 - a. Review LPF policy – Does the program meet the goals sought by the legislation?
 - b. Evaluate LPF administration – How can the process, forms, manuals, or law be improved or amended?

Oakland Sunshine Act/Public Records Act

4. Improve access to public records
 - a. Facilitate the formulation of a citywide policy, system, and set of procedures for responding to requests for public records
 - b. Design a process and create effective tools to help guide City staff in responding to requests
 - c. Communicate information about the process to City staff
 - i. Provide information on PEC intranet website, ensure availability on City Administrator's "Policies and Procedures" intranet webpage
 - ii. Conduct trainings based on the policy and procedure
 - d. Conduct evaluations, ensure audits/checks on organizations, ensure compliance with the law

Lobbyist Registration Act

5. Improve Lobbyist Registration rules, reporting process, and compliance
 - a. Formulate proposed amendments to the Lobbyist Registration Act, starting with the proposed amendments from June 2010
 - b. Update lobbyist registration information for Commission files and website
 - c. Institute streamlined program to ensure effective oversight and issuance of penalties where appropriate
 - d. Improve registration process, communication with lobbyists, and forms to reduce staff time to implement and increase efficiency in ensuring compliance
 - e. Institute e-filing for lobbyist registration

Enforcement

6. Process backlogged cases based on Commission determination of priority levels, with the goal of completing all pre-2012-filed cases by June 2013
7. Complete investigations of current and new cases within 6 months of the filing of the complaint
8. Improve efficiency of the enforcement process
 - a. Amend Commission Complaint Procedures to facilitate processing and timely closure of cases
 - b. Create database system for complaints in order to automate online complaint intake, tracking, and communications
9. Develop proactive enforcement programs to review compliance with the laws in priority areas
 - a. Review campaign and lobbyist filings related to entities bidding in the Zero Waste contract procurement process for potential violations to the contribution prohibition period

Public Outreach and Education

10. Redesign the Commission's website in order to improve access to information about the Commission and its programs and enhance public participation in Commission activities
 - a. Organize information around specific issue areas to facilitate access by potential users, including members of the public, City officials and staff, candidates, lobbyists, press, and other interested parties.
 - b. Provide video links for past Commission meetings
 - c. Add social media elements and interactive features such as Oakland's Govdelivery, which sends notices of web updates to subscribers, and other automatic functions to enhance public interfacing
 - d. Include visual enhancements, such as photos of commissioners with commissioner biographies
11. Develop materials and connections with the media in order to share information about Commission activities, issue press releases and other informational announcements to the media
12. Update and create new publications and web resources to provide easy-to-use guides, checklists, and resources on the laws within the Commission's jurisdiction
 - a. Develop PEC intranet page for internal information pertinent to City officials and staff

Advise and Assist Regulated Persons

13. Provide assistance to individuals seeking help in adhering to campaign financing, conflict of interest, lobbying, and public ethics laws
14. Log advice calls and staff time spent assisting candidates, lobbyists, City officials and staff, and others in order to measure staff resources spent in this area