

CITY OF OAKLAND  
PUBLIC ETHICS COMMISSION  
One Frank Ogawa Plaza (City Hall)  
Subcommittee Meeting  
Monday, March 18, 2013  
11<sup>th</sup> Floor Conference Room  
5:30 p.m.



Subcommittee Members: Aspen Baker (Subcommittee Chair), Benjamin Kimberley, Eddie Tejada

Commission Staff: Whitney Barazoto, Executive Director  
City Attorney Staff: Mark Morodomi, Deputy City Attorney

**PEC ACCESS TO PUBLIC RECORDS SUBCOMMITTEE MEETING AGENDA**

**This is a courtesy notice of the subcommittee meeting.**

**Please note the start time of 5:30 p.m.**

- 1. Access to Public Records Project.** The subcommittee will meet to review the status of its Access to Public Records project, discuss the framework for an ideal public records system, and identify project areas to focus the subcommittee's work. The subcommittee also will review the Public Ethics Commission website and discuss ways that staff could improve the availability of the Commission's online information. (**Attachment 1** – Access to Public Records Project Memo from January 7, 2013 Regular Commission Meeting)
- 2. Public Input.**

The meeting will adjourn upon the completion of the subcommittee'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 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](http://www.oaklandnet.com/pec).

  
Approved for Distribution

3/7/13

Date

# **CITY OF OAKLAND**

## **Public Ethics Commission**

Richard Unger, Chair  
Lloyd Farnham, Vice-Chair  
Aspen Baker  
Roberta Ann Johnson  
Benjamin Kimberley  
Monique Rivera



Whitney Barazoto, Executive Director

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TO: Public Ethics Commission  
FROM: Whitney Barazoto, Executive Director  
DATE: December 19, 2012  
RE: Access to Public Records

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The Public Ethics Commission (PEC) is exploring the issue of access to public records in the City of Oakland, with the goal of improving the accessibility of Oakland public records. The Commission conducted three hearings during the first half of 2011, but the project was on hold in June 2011 and during the time when the Commission lacked staffing. In the interim, the new City Administrator's office has taken steps to open up City documents and data, and other partners are showing increased interest in the issue and in providing assistance to the City. This memorandum seeks to provide some background on the Commission's prior work, information about the current context, and staff's suggestions on a framework for the Commission's work going forward. In the coming weeks and months, the Commission can continue the work of its prior Sunshine Committee, explore the context of the new environment, and make specific recommendations on how the City can improve its ability to provide open access to City documents and information.

### **Prior Commission Work on Access to Public Records**

In early 2011, the Commission gathered information about access to public records from multiple perspectives over the course of a few hearings. The staff memoranda and supporting materials are included in this agenda packet to provide some background on the Commission's work on this issue in 2011. These materials are summarized as follows:

1. **Oakland Policies and Procedures** – On October 4, 2010, the Public Ethics Commission adopted a motion to conduct hearings on the subject of Oakland's policies and procedures regarding public records requests. (per December 6, 2010 Staff Report – attached here as **Exhibit A**)
2. **Problems with the System** – On February 2, 2011, the Public Ethics Commission heard testimony regarding the problems encountered by the public in attempting to access City records (February 2, 2011 Staff Memo – **Exhibit B**)
3. **City Employee Perspective** – On March 24, 2011, the Public Ethics Commission meeting focused on how City employees administer public records requests (March 24, 2011 Staff Memo – **Exhibit C**)

4. **Comparison of Oakland Rules to Other Cities** – On May 18, 2011, the PEC reviewed ordinances, policies, and proposals from other local agencies (May 18, 2011 Staff Memo – **Exhibit D**)
5. **San Francisco Proposal** – On June 6, 2011, the PEC heard a presentation from Richard Knee, Chair of the Sunshine Ordinance Task Force, regarding proposed amendments to the San Francisco Sunshine Ordinance. The Commission directed outgoing staff to prepare a summary of Sunshine-related proposals from all the hearings listed above. (June 6, 2011 Staff Memo and Summary of Proposed Recommendations – **Exhibit E**)
6. **Records Management Policy** – The next hearing in the series was supposed to be a presentation from the City Clerk’s office regarding the Records Management Policy being created by the Clerk pursuant to Resolution 82908 (June 29, 2010). (**Exhibit E**). The City Clerk is currently finalizing the policy and plans to present it at the PEC’s February meeting after submitting it to City Council Rules and Legislation Committee, as required by the Resolution 82908. (Resolution 82908 – **Exhibit F**)

## **Current Context**

Recent efforts by City officials and private and public partners have shifted the momentum on opening up City government and making way for significant progress on issues such as access to public records. For example, the City Administrator’s Office recently created a new position of Online Engagement Manager, filled by Nicole Neditch, who is leading projects that seek to open up engagement with the citizens of Oakland. Ms. Neditch presented information to the Commission this past summer regarding the City’s new open data platform and the Code for America fellowship application which had just been submitted. Since then, more work has been done on the open data initiative, and Oakland was awarded three Code for America fellows who start in January and will be working on special technology projects and applications for the City. One project that the fellows may decide to take on is the creation of a technological tool to facilitate access to public records for the City of Oakland. In addition, events like CityCamp Oakland, and initiatives by groups such as OpenOakland and OakX, among others, make this an exciting time for the City overall, and particularly on access to public records.

## **Framework for an Ideal System**

Access to public records is not just about responding to public records requests. Rather, access to public records is a multi-level service for the public that encompasses how the City provides information to the public through both online and traditional means, from the information available on the City’s website to publications that are accessible inside a physical office, to the public’s understanding of where to find documents, to staff’s knowledge and capacity to respond to requests. It is the entire system of providing information to the public. Staff suggests that the Commission take this broad, multi-dimensional approach to this issue and proceed with a project designed to assess and make recommendations to the City Administrator and City Council in the following areas:

1. **Law** - Develop potential amendments to the Sunshine Ordinance
2. **City Policy/Administrative Instruction** – A policy to affirm the Public Records Act and Sunshine Ordinance and articulate roles and procedures, identify department coordinators, and articulate penalties and incentives for compliance.

3. **Process for Responding to Requests** – A process based on the City Policy, complete with tools for staff such as instructions on how to respond to requests, sample response letters, a master list of public records coordinators for each department, a redaction guideline/checklist, and other helpful tools
4. **System/Database for Tracking Records Requests** – Technology to facilitate the process of responding to requests, tracking information about requests, and understanding the volume and types of requests received
5. **Online Availability of Information** – Information provided to the public through City websites in general, as well as information about how to make a specific public records request and who to call for help
6. **Prototype for Improving Online Information** – PEC could serve as an example of how to redesign its website to be more user-friendly and better meet the needs of its customers
7. **Incentive/Reward System** – Measures that can be taken by management and/or the PEC to encourage and improve compliance with public records requirements
8. **Ongoing Feedback Mechanism** – Solicit feedback on access public records issues – whether related to the availability of online information, a response or lack of response to a request, or changes needed in the law
  - a. **See** a new webpage created for suggesting changes to the Sunshine Ordinance at [www.oakland.digress.IT](http://www.oakland.digress.IT).

Some of the latter provisions could be implemented directly by the PEC within its existing authority. In addition, the Commission could articulate what an ideal access to public records system should look like – what characteristics and qualities it would have – along with performance measurements that could be tracked to assess and show performance and improvement over time.

### **Roadmap for the Commission**

Given the ground that has been covered through the Commission’s public meetings, staff recommends that the Commission create an Access to Public Records Subcommittee to review the historical record, consider the information in today’s context, discuss the framework above, and draft potential recommendations to be considered by the full Commission. Staff also requests input from the Commission and the public on the above project proposal.