

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Monday, June 4, 2012
Sgt. Mark Dunakin, Hearing Room 1
6:30 p.m.



Commissioners: Richard Unger (Chair), Aspen Baker, Amy Dunning, Lloyd Farnham, Monique Rivera

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

MEETING AGENDA

1. **Roll Call and Determination of Quorum**
2. **Staff and Commission Announcements**
 - a. Welcome to new Commissioner Monique Rivera
3. **Open Forum**

CONSENT ITEMS¹

4. **Approval of Commission Draft Minutes**
 - a. June 6, 2011 (Attachment 1)
 - b. March 5, 2012 (Attachment 2)

ACTION ITEMS

5. **Elections of Chair and Vice-Chair of the Commission.** Commissioners will elect a chair and vice-chair for the remainder of the 2012 year.
6. **Presentation and Appointment of New Commission Members.** The ad-hoc subcommittee of Commissioners who interviewed applicants to the Commission selected two nominees for appointment to the Commission. Each of the following candidates will take a few minutes to introduce themselves, and the Commission will decide whether to appoint them to the Commission:
 - a. Roberta Ann Johnson
 - b. Benjamin Kimberley
7. **Meeting Schedule and Related Amendment to Commission By-Laws.** Commission staff proposes a schedule of upcoming regular Commission meetings for discussion and approval. Staff includes a proposed schedule and draft amendments to Commission By-Laws to allow for a change in the timing of the Commission's annual recess from August to the month of October. (Attachment 3)

¹ Consent items will be voted on all at once, unless a Commissioner requests removal of an item from consent prior to the vote.



8. **Complaint/Enforcement Program.** Staff presents an updated list of complaints which now reflects all cases pending as of June 2011 as well as all known complaints that have been filed between June 2011 and June 2012. Commissioners may discuss the complaint process in general and may discuss any of the complaints listed in the attached spreadsheet. (Attachment 4)
 - a. Staff recommends closing the following complaints that were pending dismissal in May 2011 (Attachment 5):
 - i. 03-02 (David Mix)
 - ii. 07-03 (Sanjiv Handa)
 - iii. 08-04 (Daniel Vanderpriem)
 - iv. 08-13 (David Mix)
 - v. 08-18 (David Mix)
9. **Annual City Council Member Salary Adjustment.** The Commission will discuss and determine whether to adjust City Council member salaries according to the increase in the Consumer Price Adjustment, as required by City law. The Commission also will consider whether to increase Council member salaries beyond the required adjustment. (Attachment 6)
10. **Limited Public Financing Act.** Staff presents information about the Limited Public Financing Act and the corresponding Election Campaign Fund which has \$129,449.68 in combined allocations for the 2011-12 and 2012-13 fiscal years. (Attachment 7)
11. **Annual Report 2011.** Commission staff submits a draft annual report to summarize Commission duties and activities for 2011. (Attachment 8)

DISCUSSION ITEMS

12. **Commission Budget.** Staff reports on the Public Ethics Commission's annual budget.
13. **City Council Non-Interference in Administrative Affairs.** The City Attorney issued a memorandum explaining the prohibitions on contact by City Council members vis-à-vis City administrative staff according to City Charter Section 218. (Attachment 9)

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 by completing a Speaker's Card and giving it to a representative of the Public Ethics Commission. All speakers will be allotted three minutes or less unless the Chairperson allocates additional time.

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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.

Richard Unger for Richard Unger, Chairman 5/24/12
Approved for Distribution Date

MINUTES OF MEETING -- DRAFT
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REGULAR MEETING
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Monday, June 6, 2011
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6:30 p.m.



Commission Membership: Richard Unger (Chair), Ai Mori (Vice-Chair), Alex Paul, Amy Dunning, Lloyd Farnham, Christopher Young, Aspen Baker

Staff Members:

Commission Staff:

Daniel Purnell, Executive Director

Tamika Thomas, Executive Assistant

City Attorney Representative:

Alix Rosenthal, Deputy City Attorney

MINUTES OF MEETING

A. Roll Call And Determination Of Quorum

The meeting was called to order at 6:32 p.m.

Members present: Unger, Mori, Paul, Dunning, Farnham

Members excused: Young, Baker

B. Approval Of Draft Minutes: Regular Meeting Of Special Meeting Of March 24, 2011; May 2, 2011; And Special Meeting Of May 18, 2011

The Commission approved by unanimous consent the minutes of March 24, 2011, May 2, 2011, and May 18, 2011.

C. Executive Director And Commission Announcements

The executive director reported that former Commission executive assistant Tamika Thomas has accepted the position of Assistant City Clerk. The Commission expressed its thanks and congratulations to Ms. Thomas for many years of dedicated service.

The City Council may consider the Commission's proposed amendments to the Lobbyist Registration Act at its June 21, 2011, meeting.

The application period for the executive director position closes on June 10, 2011. The Personnel Office has expressed optimism that there would be a sufficient number of qualified applicants to proceed with the selection of a new executive director.

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Chairperson Unger announced that in light of the June 30 departure of the current executive director the Commission would cancel the scheduled July 6, 2011, regular meeting. A special meeting will be scheduled upon the hiring of a new executive director.

The executive director expressed his thanks for the opportunity to serve the Commission for the past 11 years. The Commission thanked the executive director for his service.

D. Open Forum

There were six speakers: Barbara Newcombe, Sanjiv Handa, Katherine Gavzy, Andrew Wiener, Judy Cox, Mark Morodomi

E. A Staff Report And Presentations On Improving Public Access To City Records

The Commission received a presentation from Richard Knee, chairperson of the Sunshine Ordinance Task Force, regarding proposed amendments to the San Francisco Sunshine Ordinance. The next meeting pertaining to public records will consider the City Clerk's proposed Citywide records management proposal. The Commission directed staff to prepare a summary of proposals and recommendations to date from all the hearings the Commission has convened on the subject of improving access to City records.

There were two speakers: Richard Knee; Sanjiv Handa

F. A Staff Report And Action To Be Taken Regarding 1) A Required Review And Adjustment Of City Council Salaries; And 2) Proposals To Modify Commission Authority To Adjust City Council Salaries Pursuant To City Charter §202(c)

The Commission moved, seconded and adopted a motion to approve an 2.8 percent salary increase for the Office of City Councilmember effective as of the first pay period of FY 2011-12, which increase reflects the change in the CPI for the San Francisco Bay Area for the period April 2010 through April 2011.
(Ayes: All)

The Commission expressed a unanimous desire to retain authority to adjust City Council salaries but would like to develop a proposal to expand the

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Commission's discretion in making future adjustments. The Commission directed staff to agendaize this issue for the next regular Commission meeting.

There were two speakers: Barbara Newcombe; Sanjiv Handa

G. A Staff Report And Action To Be Taken Regarding Proposed Staff Reductions To The Public Ethics Commission

The Commission directed staff to send a letter on behalf of the Commission to members of the City Council requesting that they reject a proposed 50 percent reduction in funding for the position of executive assistant to the Commission. The Commission directed staff to incorporate the arguments presented by former Commissioner Andrew Wiener in his letter to the Commission dated June 1, 2011.

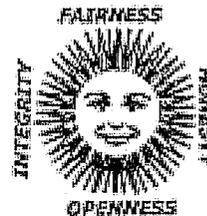
There were three speakers: Andrew Wiener; Barbara Newcombe; Sanjiv Handa

H. A Staff Report Regarding Pending Commission Proposals

The Commission received a staff report describing the status of various pending Commission proposals and actions being taken to ensure a smooth transition for the new executive director.

The meeting adjourned at 8:53 p.m.

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Sgt. Mark Dunakin, Hearing Room 1
6:30 p.m.



Commission Membership: Richard Unger (Chair), Amy Dunning, Lloyd Farnham, Christopher Young, Aspen Baker

Staff Members: Commission Staff - Patrick J. Caceres, Interim Executive Director;
City Attorney Representative – Alix Rosenthal, Deputy City Attorney

MINUTES OF MEETING

A. Roll Call & Determination of Quorum

The meeting was called to order at 6:30 p.m.

Members present: Chair Richard Unger, Commissioner Aspen Baker, Commissioner Lloyd Farnham, Commissioner Amy Dunning, and Commissioner Chris Young.

Staff present: Patrick J. Caceres

Staff excused: Alex Rosenthal

B. Staff and Commission Announcements

Mr. Caceres stated the attachments for agenda items F and G were submitted after the ten day deadline for notices. Therefore those two attachments do not comply with the Sunshine Ordinance, and have to be put on the agenda for the next meeting.

Chair Unger reviewed the status of the Commission during the time it has been dark. Initially, the Assistant to the Executive Director position was eliminated from the budget last year. Then the Executive Director retired in June. It wasn't until October when the subcommittee was given five candidates to interview. The candidates were interviewed, and the recommendations were made to the City Administrator. The candidate was hired on December 10th. With the budgetary crisis, pink slips went out including to Ms. O'Haire. The City Administrator then suggested combining the executives for the Public Ethics Commission and the Citizens Police Review Board. On the 30th Ms. O'Haire the newly appointed Executive Director resigned, and on the 31st, the City Council accepted a revised budget. Chair Unger has not been able to get a copy as yet, but he has been assured the budget continues funding for the

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Executive Director of the PEC, since it is a charter position. The Commission is now in the process of interviewing for a new executive director, and is re-interviewing two of the top three past candidates, both who are still interested in the position. The Commission hopes to have a new Executive Director on board soon. In the interim, Mr. Caceres has been appointed the interim Executive Director.

Commissioner Baker thanked the Chair for his dedication. She also wanted to recognize Mr. Sanjiv Handa who passed away while they were not meeting. She wanted to recognize his contributions to the City and the Commission. Chair Unger noted that the City Council has a second reading planned to rename the Sunshine Ordinance the Sanjiv Handa Sunshine Ordinance.

C. Open Forum

Mr. Ralph Kanz who attended the meeting spoke, and noted that Sanjiv Handa's passing was a huge loss to the City as well. Mr. Kanz opined that "the whole staffing debacle is unbelievable." He felt the City has frequently been slow in hiring candidates. Mr. Kanz feels the Commission needs to look at the history of ethic commissions, and this Commission's history, which he believes has never had proper staffing. Mr. Kanz feels that because of this, the Commission has never been able to fulfill its mandate. Mr. Kanz believes it is "simply a staffing issue." Mr. Kanz hopes the Commission sends this strong message to the City Council. Mr. Kanz believes the City Council "does not care," as the City Council "does not want an Ethics Commission," but that it is in the Charter. Mr. Kanz states that it is not a Commission with only an Executive Director, and no investigators or full staffing.

Chair Unger responded by stating that he went to the City Council at their last meeting and made that point regarding the diminished staffing. Chair Unger said that it is correct that this Commission has more responsibilities than any other commission in the state, yet no staff. Chair Unger also stated that former Commissioner Andrew Wiener has been speaking with the City Attorney's office, and is considering filing suit against the City for failing to adequately staff the Commission. Chair Unger will keep the Commission posted about any such further action.

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Mr. Caceres discussed the need to elect officers for this meeting, but stated perhaps they could make provisional appointments for this meeting for an interim chair and a vice chair. Chair Unger noted that they forgot to put the election of officers on the agenda; however, the charter requires that they hold elections at the first regularly scheduled meeting of the year.

Mr. Kanz stated he believes matters should just carry over, as it is not the first regularly scheduled meeting, as there was no schedule voted on as yet. Mr. Kanz stated there is a long history of holdover officers, and because of the Sunshine law, he believes the Committee is on a slippery slope otherwise. Chair Unger's proposal was that the Commission put elections on the agenda and hold elections at the next regularly scheduled meeting. The other commissioners agreed.

D. Status of Current Staffing for the Commission

Mr. Caceres stated the City Administrator's office is going to schedule interviews next week for possible candidates. The Commission will be part of the process as well. The hope is that in the coming weeks they will have a full time Executive Director for the Commission.

Chair Unger stated that when the proposal was initially floated of combining paid staffing of the Commission of Public Ethics with the Citizens Police Review Board, the Assistant City Administrator indicated this might be good because there might be additional staff time available from members from the CPRB or from Thomas, a previous Executive Assistant, for investigations. Chair Unger asked if this notion is still floating around. Mr. Caceres noted that in the current budget, the Assistant to the City Administrator position in the CPRB was eliminated, and its policy analyst was consequently bumped. Therefore, there is less staffing for CPRB as well, and the Council's vote has not resulted in additional capacity for the CPRB or Public Ethics Commission. There are creative uses of staff that can be used in the interim until there is a regular director. But staffing is a stretch for both boards in regards to managing of staffing at this time. Chair Unger stated that he feels this may not be a policy to follow anyway without public discussion, as there may be a problem with commingling of staff.

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Commissioner Baker clarified with Mr. Caceres that he is the interim Executive Director until one is hired.

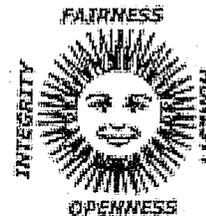
E. New Commissioner Appointees Discussion

Patrick Caceres stated there are currently five applicants the committee can begin to interview if they so choose. He can extend the opening for applicants if the Board would like. Mr. Caceres has also informed the Mayor's office that left over candidates will be presented as soon as possible as options for potential Mayoral appointees.

Chair Unger asked how these applicants came to the Commission. Mr. Caceres stated that he received some resumes when he got the file from Ms. O'Haire, and from e-mails he saw and followed up with. One or two applicants also came through an announcement by Mayor Quan. Chair Unger said it has been a tradition for the Commission to widely circulate openings. There has been a posting on the City website in the past, and he wondered about other avenues. Mr. Caceres had a copy of a past announcement to share. Mr. Caceres had also spoken with Ms. Tamika Thomas, who was the assistant to Mr. Dan Purnell. Ms. Thomas suggested putting it on line, sending it to libraries, e-subscribers of the Commission, and putting it on Craig's List, etc. Commission Dunning stated she recalled the announcement had to be posted in libraries a specific amount of time. Chair Unger said that he believes it is around 45 days, and there was a form on the Commission's website to be filled out along with the applicant resume. Chair Unger stated following subcommittee interviews, the applicants are presented to the full board for a vote.

Mr. Kanz stated that having served a full term, he believes typically the announcement was posted a minimum of 30 days, and generally 45-60 days. The notice was posted around August, and the application was due around the end of October. By mid-December the finalists would be forwarded to the Commission for a January vote. City Council members also have e-news, which is a good source for getting the announcement out. The finalists who considered fine but don't get selected by the Commission, have also been generally forwarded to the Mayor's office for consideration.

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Commissioner Farnham stated the positions need to be filled as soon as possible, and that the Commission could make a recommendation to the Mayor first to move the process along, perhaps through a subcommittee recommendation. Commissioner Farnham agrees the announcement needs to be a full public circulation. Chair Unger clarified there is one Commission appointment seat opening and one mayoral appointment commission seat opening. Chair Unger agreed that filling the positions should be done quickly. Chair Unger also stated that the Mayor indicated she would be happy to receive suggestions from anyone from the Commission or the public, and those names should be forwarded to her. Mr. Farnham stated that if there is a rule for time posting to follow that. If not, he recommended thirty days. Mr. Farnham made a motion to that effect. The motion was seconded by Commissioner Dunning, and passed unanimously by the Commissioners. Chair Unger stated that if members have other thoughts as to how publicize the announcement to contact Mr. Caceres.

Chair Unger stated a subcommittee should be formed to review applications and interview applicants and make the recommendations to the full committee. The group should be no more than three, so that it is not considered a meeting. Commissioners Farnham, Dunning and Chair Unger volunteered for the subcommittee. Chair Unger made a motion to that effect. The motion was seconded by Commissioner Farnham, and passed unanimously.

F. Review of Outstanding Complaints & G, New Complaint Discussion

Mr. Caceres states those two items will be put on the agenda for the April meeting as noted earlier because the attachments were submitted after the ten day deadline. Mr. Caceres informed Complainant Vigilante of this, who will come to the next meeting to present his complaint.

Chair Unger asked for clarification as to how Mr. Caceres is identifying complaints that have not been responded to as yet, especially subsequent to Mr. Purnell's retirement. Chair Unger suspects there are a large number of complaints that are floating around that need to be identified. Mr. Caceres said that this is a significant challenge. Mr. Caceres has been working with Ms. Tamika Thomas to determine where the complaints would be found. Ms. Thomas said that files would be made for past complaints. Mr. Caceres is



waiting for the pass word for the Public Ethic's Commission's e-mail and its voice mail, so that he can find additional complaints. Mr. Caceres has gone through some of Ms. O'Haire's materials, but has not found a reference to voice mail complaints in it so far. Mr. Caceres will update the Commission on this information at the next meeting. Chair Unger recommended that Mr. Caceres also get in touch with Mr. Morodomi, because Mr. Purnell had recommended that some complaints be forwarded to the City Attorney's office in the interim as well.

Mr. Kanz stated that he believes this complaint is not ready to come to the Commission as yet, as the investigation and a staff report have not been prepared relative to this complaint. Mr. Kanz believes the complaint should go back to the queue.

Commissioner Dunning stated that the list of complaints seems short to her, and does not properly list all the complaints. Mr. Caceres noted the list was the most recent list from the last June meeting. Both Commissioner Dunning and Chair Unger indicated that it is not the full list. Mr. Caceres will look into it. Chair Unger stated he gave Ms. O'Haire a full list when she came on. Chair Unger stated he can provide Mr. Caceres with the June meeting complaint list as well.

H. Future Education Efforts on Limited Public Financing

Mr. Caceres obtained information from the City's Budget office re the current balance of funds for campaign financing. The current balance is \$52,000.00. There is a budgeted allocation of \$77,500.00. Therefore, it is possible that the pool of money could be up to \$129,500.00. Some of the major events include the announcement of the program, when training will be conducted, when reimbursements will start to be received, and the ending date to receive reimbursements. It is anticipated reimbursements will begin in July, and reimbursements will end by the end of November. Mr. Caceres stated the Commission will want to start planning the announcement.

Chair Unger asked for the filing dates. Mr. Caceres stated the candidates are filing now, but he does not know the exact date. Mr. Caceres stated Ms. Tamika Thomas told him they are still obtaining filings. Chair Unger said there

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is a deadline for filing pursuant to the law, and the Commission needs to review the legislation to make sure they are in compliance.

Mr. Kanz stated he believes the filing date is limited to 88 days before the election, which will be sometime in August, and most of the money will be given out probably in September and October. Mr. Kanz said there are five city council races this year, and \$120,000.00 "does nothing." Mr. Kanz suggested suspending the entire program, as the City Council keeps "jerking the funding," which he believes is a "charade." Mr. Kanz had suggested in the past the program begin twelve months in advance of the election, but nothing was done to change it. Mr. Kanz feels the current rules interfere with the ability of a candidate to plan their campaign. Mr. Kanz feels the Council will "rip it out" anyway during budgeting, so public financing should be ended now so candidates know what they are dealing with come November.

Chair Unger stated that Mr. Purnell and the Commission had made changes in the manner of fund disbursement to simplify that process, and he recommended reviewing those recommendations, review the Limited Public Financing rules to ensure compliance, and put on the agenda to discuss whether or not to pursue the program as Mr. Kanz mentioned. Chair Unger also wants the Commission to look at independent expenditure committees, a way to request notification and to verify that those expense limits had been surpassed. It needs to be reviewed and taken care of before the next election.

Commissioner Baker stated she was confused about the decision to make or discuss. While she understands the Limited Public Financing is a function of the Commission, she is unclear what is a staff function versus their function. She disagrees on suspending the program.

Chair Unger stated that the Commission solicits from candidates whether they wish to apply for the funds that are available, but the administration is handled and the provisions are handled by the staff. The Commission approves submissions from the staff. Commissioner Farnham agreed that sounded right to him.

Mr. Kanz called 2010 a "train wreck." Mr. Kanz stated the City Council was originally going to "steal" all the limited financing money, but because of public

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outcry they only "stole" half the money. The candidates all wanted to participate, but additional lost applications were found in the clerk's office. Therefore, the amount of funds kept going down. "That benefits no one," Mr. Kanz stated, when the candidate then days before the election learns they won't have the funds they planned on. Mr. Kanz believes a candidate is better off knowing now there is no funding. Mr. Kanz believes that staffing the PEC is a far better use of the funding.

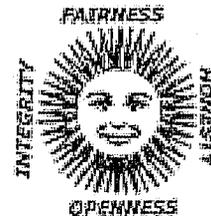
Commissioner Dunning stated she did not know who made the decision, and asked what the Commission is to do. Mr. Caceres said he believes it is the City Council's decision, and the Commission determines how to allocate funds. Mr. Caceres stated he will speak to the Clerk's Office for more information. Mr. Caceres agrees the program is a money target for budgeting. Mr. Caceres feels the challenges should be addressed in advance, so the program can be properly administered.

Chair Unger wants to add to the next agenda where the Commission stands on the Commission's recommendations for changes. Chair Unger also wants to add to the agenda whether or not to recommend to the Council to suspend the Limited Public Financing program. Commissioner Baker stated she wanted more information at the next meeting first as to how it works, how to make it better, and what the concerns are. Mr. Caceres stated he will try to have someone from the Clerks' Office at the next meeting to share information on the process. Chair Unger stated that he wants to review where the matter stands and changes to the process. Commissioner Dunning wants to be sure program dates are calendared. Mr. Caceres was directed to prepare a calendar for the next meeting.

I. Annual Report Discussion

Mr. Caceres stated that an annual report is required from the Commission. A challenge is that during half of 2011 the Commission was not meeting. Commissioner Farnham asked if there was a deadline for the report. Mr. Caceres stated he did not know, but he would check into it. Generally though, this is the time frame and it should be produced relatively soon. Chair Unger stated the minutes should be reviewed, and that Mr. Purnell should be called to "refresh our memories" as to what was done last year. Commissioner Dunning felt that the report should be as robust as possible to prove the point the

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Commission is important and needs an Executive Director. Chair Unger also suggested the commissioners share information with Mr. Caceres. Commissioner Farnham noted the town hall meetings were important last year. Chair Unger stated that Mr. Purnell had not summarized those meetings, and the best practices review had not been finished as yet, and in the future, that topic should be on the agenda. Mr. Caceres stated that a Chair's letter may be included in the annual report, with highlights listed of the Commission's accomplishments.

J. Form 700

Mr. Caceres reminded everyone to fill out a Form 700, which is legally required of everyone on a Board or Commission. The deadline is April 1, 2012. Chair Unger added you can fill out the form on line, but it must be printed out and submitted to the City Clerk's office, it cannot be submitted electronically. Chair Unger encouraged everyone to get their form in on time.

Closing Remarks:

Chair Unger stated that for the next meeting, the review of minutes from the June 6th, 2011 meeting needs to be put on the agenda, and he asked Mr. Caceres to find the minutes.

The next Commission meeting will be the first Monday of next month at 6:30 p.m.

Mr. Caceres thanked the Commission for allowing him to staff the director position for the time being, and he thanked the Commission for their patience as he is learning. Mr. Caceres stated he will provide the information requested. Chair Unger thanked Mr. Caceres as well.

The meeting was adjourned at 8:00 p.m.

CITY OF OAKLAND
Public Ethics Commission

Richard Unger, Chair
 Aspen Baker
 Amy Dunning
 Lloyd Farnham
 Monique Rivera



Whitney Barazoto, Executive Director

TO: Public Ethics Commission
 FROM: Whitney Barazoto, Executive Director
 DATE: May 18, 2012
 RE: Commission Meeting Schedule for 2012 and By-Laws Amendment to Effect the Schedule Changes

Below is a proposed schedule for Commission meetings in 2012. Unless otherwise specified, meetings will occur on the first Monday of each month.

2012 REGULAR MEETING SCHEDULE		
DATE	TIME	ROOM
June 4, 2012	6:30 PM	Hearing Room 1
July 2, 2012	6:30 PM	Hearing Room 1
August 6, 2012	6:30 PM	Hearing Room 1
September 4, 2012 (Tuesday)	6:30 PM	Hearing Room 1
<i>Recess in October</i>		
November 5, 2012	6:30 PM	Hearing Room 1
December 3, 2012	6:30 PM	Hearing Room 1

If the Commission decides to approve this schedule for the rest of 2012, then it will need to amend its By-Laws to delete the specified date for the Commission's annual month-long recess, which normally occurs in August.

Attached is a draft of the By-Laws, as proposed to be amended to accommodate a change in the annual recess.

Draft



**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
By Laws of the
Public Ethics Commission
[Proposed June 4, 2012]**

PREAMBLE

On November 5, 1996, the people of the City of Oakland established a Public Ethics Commission by amendment to Oakland City Charter section 202. Pursuant thereto, Ordinance number 11961 C.M.S. was adopted by the Oakland City Council on January 28, 1997, prescribing the functions, duties, powers, jurisdiction and terms of the Public Ethics Commission.

The Commission sets policy and monitors and responds to issues regarding compliance by the City of Oakland, its elected officials, officers, employees, boards, and commissions with City regulations and policies intended to assure fairness, openness, honesty and integrity in City government. Those regulations and policies include, but are not limited to, the Oakland Campaign Reform Act, Oakland's Conflict of Interest Code, Council Code of Ethics, the Oakland Sunshine Ordinance, the Oakland Public Campaign Finance Ordinance and a Lobbyist Registration Ordinance, if adopted.

ARTICLE I - Identification

Section 1: Name

The City of Oakland Public Ethics Commission

Section 2: Office

One Frank Ogawa Plaza
4th Floor
Oakland, California 94612

Section 3: Authority, Statutory Requirements and Other Laws and Policies

The Commission must comply with all applicable laws, including but not limited to the City of Oakland Charter, the Public Ethics Commission Ordinance (Ordinance # 11961 C.M.S., adopted January 28, 1997), the Oakland Sunshine Ordinance (Ordinance # 11957 C.M.S., adopted January 14, 1997), the Ralph M. Brown Act (Government Code sections 54950 et. seq.), the Political Reform Act of 1974 Government Code sections 81000 et. seq.), the

Public Records Act (Government Code sections 6250 et. seq.), the Oakland Conflict of Interest Code, (Ordinance # 11979, as amended), the Oakland Campaign Reform Act, the Oakland Public Campaign Finance Ordinance, and Charter section 202, as amended.

ARTICLE II - Mission Statement

MISSION: To Promote the Highest Confidence in the Ethics of the Government of the City of Oakland

In order to fulfill this mission, the Public Ethics Commission shall:

1. Encourage full participation in government by heightening awareness of the rights of the public to information about their city government;
2. Facilitate access to such information and meetings of public bodies in the City of Oakland;
3. Help ensure that city officials, employees, boards and commissions, candidates and other persons understand their obligations with respect to state and local laws that are intended to assure fairness, openness, honesty and integrity in government; exercise independent oversight over compliance with applicable state and local laws;
4. Make recommendations to the City Council to improve the implementation of the applicable laws and promote ethics compliance;
5. Determine bi-annually whether adjustments to compensation for City Councilmembers are appropriate, subject to voter approval of any increases; and
6. By example, set the standard for ethical conduct.

ARTICLE III - Ethics Commission

Section 1: Number, Appointing Authority and Qualifications

The Public Ethics Commission shall consist of seven members who are Oakland residents. 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 process by the affirmative vote of at least four (4) members of the Commission. The four (4) members so appointed shall reflect the interests of the greater Oakland neighborhood and business communities. (Oakland City Charter § 202 (b) and Public Ethics Commission Ordinance 11961 C.M.S., § 4. a.)

Section 2: Term of Appointment

Members of the Commission are appointed to staggered 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 serve for a term of three (3) years with the following exceptions. For terms commencing immediately preceding adoption of this Ordinance, two (2) non-mayoral appointee members were appointed for a one (1) year term, two (2) non-mayoral appointee members were appointed for a two (2) year term, and the three (3) mayoral appointee members were appointed for a three (3) year term. For mayoral appointee terms commencing in January, 2000, one shall be appointed for a one (1) year term, one for a two (2) year term, and one for a three (3) year term. No member may serve more than one consecutive three (3) year term. (Public Ethics Commission Ordinance 11961 C.M.S., § 4. c.)

Section 3: 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:

1. Be employed by the City or have any direct and substantial financial interest in any work or business or official action by the City.
2. Seek election to any other City public office, or participate in, or contribute to an Oakland municipal campaign.
3. Endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election. (Public Ethics Commission Ordinance 11961 C.M.S., § 5.)

Section 4: Vacancy and Removals

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 City Council within fourteen days of appointment. A vacancy shall be filled no sooner than 30 days and no later than 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 any of the three (3) positions appointed by the Mayor and confirmed by the City Council shall forward such recommendation to the Mayor for consideration no later than thirty (30) days from the date that a vacancy occurs. (Public Ethics Commission Ordinance 11961 C.M.S., § 4 d.)

A member appointed by the Mayor may be removed pursuant to Section 601 of the Charter. A member appointed by the affirmative vote of four (4) members of the Commission may be removed by the affirmative vote of four (4) members of the Commission. Among other things, conviction of a felony, misconduct, incompetence, inattention to or inability to perform duties, or absence from (3) consecutive regular

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meetings except on account of illness or when absent from the City by permission of the Commission, shall constitute cause for removal. (Public Ethics Commission Ordinance 11961 C.M.S., § 4 e.)

Section 5: Compensation

Commissioners serve without compensation.

Section 6: Oath of Public Office

Acceptance of the Oath of Public Office constitutes a Commissioner's sworn responsibility of public trust. Members are required to serve well and to faithfully discharge their duties and responsibilities diligently and consistent with the laws of the City of Oakland and all pertinent state and federal laws.

Section 7: Functions and Duties

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

1. Oversee compliance with and enforcement of the Oakland Campaign Reform Act. (Public Ethics Commission Ordinance 11961 C.M.S., § 2. a.)
2. Oversee compliance with the City of Oakland Code of Ethics. (Public Ethics Commission Ordinance 11961 C.M.S., § 2. b.)
3. Oversee compliance with conflict of interest regulations as they pertain to City of Oakland elected officials, officers, employees, and members of boards and commissions. (Public Ethics Commission Ordinance 11961 C.M.S., § 2. c.)
4. Oversee the registration of lobbyists in the City of Oakland should the City Council adopt legislation requiring the registration of lobbyists. (Public Ethics Commission Ordinance 11961 C.M.S., § 2. d.)
5. Oversee compliance with any ordinance intended to supplement the Brown Act or Public Records Act (the "Oakland Sunshine Ordinance"). (Public Ethics Commission Ordinance 11961 C.M.S., § 2. e.)
6. 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 of Oakland elections and campaigns. (Public Ethics Commission Ordinance 11961 C.M.S., § 2. f.)
7. Make recommendations to the City Council regarding amendments to the City of Oakland Code of Ethics, Oakland Campaign Reform Act, Conflict of Interest Code,

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any ordinance intended to supplement the Brown Act or Public Records Act (the Oakland "Sunshine Ordinance"), 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. Public Ethics Commission Ordinance 11961 C.M.S., § 2. g.)

Determine bi-annually whether adjustments to compensation for City Councilmembers are appropriate, subject to voter approval of any increases. In 1997, the Commission established a base salary for the Office of Councilmember. Thereafter, the Commission was charged with fixing City Councilmember compensation bi-annually at a level not to exceed ten percent (10%) above the base salary as adjusted. (Oakland City Charter § 202 c. and Public Ethics Commission Ordinance 11961 C.M.S., § 2. h.)

After November 3, 1998, or until such time as the City Charter is further amended, all salary increases must be approved by a vote of the people pursuant to Oakland City Charter (Oakland City Charter § 202 d. and Public Ethics Commission Ordinance 11961 C.M.S., § 2. h.)

8. 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. (Public Ethics Commission Ordinance 11961 C.M.S., § 2. i.)
9. 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 (the "Oakland Sunshine Ordinance"), and public ethics. (Public Ethics Commission Ordinance 11961 C.M.S., § 2. j.)
10. 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. (Public Ethics Commission Ordinance 11961 C.M.S., § 2. k.)
11. 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. (Public Ethics Commission Ordinance 11961 C.M.S., § 2. l.)
12. Prescribe forms for reports, statements, notices, and other documents related to campaign financing, conflict of interest, lobbying, and public ethics. (Public Ethics Commission Ordinance 11961 C.M.S., § 2. m.)

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13. Develop campaign financing, conflict of interest, lobbying, Brown Act, Public Records Act and public ethics informational and training programs, including but not limited to:
 - a) seminars, when appropriate, to familiarize newly elected and appointed officers and employees, candidates for elective office and their campaign treasurers, lobbyists, government officials and the public, with city, state and federal laws related to campaign financing, conflicts of interest, the Public Records Act, the Brown Act, lobbying, and public ethics.
 - b) 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. (Public Ethics Commission Ordinance 11961 C.M.S., § 2. n.)
14. Perform such other functions and duties as may be prescribed by the Oakland City Charter, the enabling ordinance for the Oakland Public Ethics Commission, Oakland Code of Ethics, Conflict of Interest regulations, ordinances as they may be adopted to supplement the Brown Act and the Public Records Act (the "Oakland Sunshine Ordinance"), or to require the registration of lobbyists in the City of Oakland and the Oakland Campaign Reform Act. (Pubic Ethics Commission Ordinance § 2. o.)
15. Implement the Oakland Sunshine Ordinance by:
 - a) Within 120 days of initial convening and as needed subsequently, developing appropriate goals and procedures to ensure practical and timely implementation of the Oakland Sunshine ordinance. (Oakland Sunshine Ordinance § 00.30 (A) (1).)
 - b) Advising the City Council and Board of Port Commissioners and providing information to other city departments and covered bodies on appropriate ways in which to implement the Oakland Sunshine Ordinance with a priority on simple, standard procedures for all covered bodies. (Oakland Sunshine Ordinance § 00.30 (A) (2).)
 - c) Assisting in citywide training in developing staff education programs on the Oakland Sunshine Ordinance. (Oakland Sunshine Ordinance § 00.30 (A) (3).)
 - d) Within 120 days of initial convening developing an administrative process of review and enforcement of the Oakland Sunshine Ordinance which could among other options be accomplished by the use of a volunteer ombudsman whose role

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would be to mediate and resolve disputes, disagreements and conflicts that occur as a result of the enactment of the Oakland Sunshine Ordinance. (Oakland Sunshine Ordinance § 00.30 (A) (4).)

- e) Proposing amendments to the Sunshine Ordinance to the City Council as needed. (Oakland Sunshine Ordinance § 00.30 (A) (5).)
- f) Reporting to the City Council at least once annually on any practical or policy problems encountered in the administration of the Sunshine Ordinance. (Oakland Sunshine § 00.30 (A) (6).)

In prescribing the above duties and functions of the Commission, it was not the intent of the Council either in the Public Ethics Commission Ordinance or the Oakland Sunshine Ordinance to duplicate or overlap the functions, duties, or responsibilities 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 of Oakland 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.

Section 8: Authority

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

1. Conduct investigations, audits and public hearings. (Public Ethics Commission Ordinance 11961 C.M.S., § 3. a.)
2. 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. (Public Ethics Commission Ordinance 11961 C.M.S., § 3. b.)
3. Impose sanctions, 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. (Public Ethics Commission Ordinance 11961 C.M.S., § 3. c.)

Section 9: Rules, Regulations and Procedures

Rules, regulations and procedures for the conduct of Commission business shall be established by a majority vote of the members present. The Commission must vote to adopt any motion or resolution. The Commission must 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 60 days after the date of adoption by the Commission unless before the expiration of this 60 day period two-thirds of all the members of the City Council vote to veto the rule, regulation or procedure. (Public Ethics Commission Ordinance 11961 C.M.S., § 7.)

ARTICLE IV – Officers

Section 1: Election of Officers

The Officers of the Commission shall be a Chairperson and Vice-Chairperson. At the first regular meeting of each year the members shall elect a chairperson and a vice chairperson. No officer shall serve for more than two (2) consecutive one (1) year terms. (Public Ethics Commission Ordinance 11961 C.M.S., § 6.)

Section 2: Chairperson

The Chairperson shall preside at all meetings of the Commission and is an ex-Officio member of all standing committees. The Chairperson is accountable to the Commission as a whole in setting policy and shall also perform such duties as may be assigned by the Commission. The Chairperson (or the Chairperson's designee) serves as the liaison to the media and other departments and agencies as necessary.

Section 3: Vice Chairperson

The Vice Chairperson shall perform the duties and responsibilities that may be delegated by the Chairperson, and the assignments traditionally assigned to that office. In the absence or disability of the Chairperson, the Vice Chairperson shall perform the duties as described in Article IV, Section 2.

ARTICLE V - Commission Staff

Section 1: City Manager

The City Manager or designees thereof, shall provide the Commission with staff assistance as necessary to permit the Commission to fulfill the Commission's functions and duties. (Public Ethics Commission Ordinance 11961 C.M.S., § 8.)

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Section 2: Legal Advisor

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 of interest. If the City Attorney, in consultation with the Commission, makes a determination communicated in writing that she or he cannot, consistent with the California State Bar Rules of Professional Conduct, provide advice sought by the Commission in any particular case, the Commission may retain independent counsel at the City's expense. (Oakland City Charter § 401 and Public Ethics Commission Ordinance 11961 C.M.S., § 9.) Any member of the Commission may consult informally with any attorney assigned to the Commission on any matter related to Commission business. However, a request from a commissioner for assistance from any of the Commission's assigned attorneys requiring significant legal research, a substantial amount of time and attention or a written response, may be made only through the Commission's Chair or by a majority vote of the Commission or any of its officially constituted committees.

Section 3. Commission Staff

The City Manager, or designee thereof, shall provide the Commission with staff assistance as necessary to permit the Commission to fulfill the Commission's functions and duties. (Public Ethics Commission Ordinance § 8.)

The Commission's staff shall report to the Chair, who shall be responsible for staff priorities. Commission members may consult staff informally, but any request for substantial assistance or a written report must be authorized by the Chair, or designee, or by a majority vote of the Commission as a whole.

ARTICLE VI - Committees

Section 1: Committee

It is the policy of the Commission to appoint individual Commissioners to perform specific tasks or functions. With respect to standing committees that are formed, the Chairperson shall appoint Commissioners to serve on Committees and designate Committee Chairs for a period of one (1) year unless otherwise specified.

Section 2: Standing Committee Meetings

The time and place of regular meetings of standing committees shall be established by a duly adopted motion of the standing committees. Special meetings of standing committees may be held at the call of their Chairs, or as deemed necessary by a majority of the Committee membership. All meetings must comply with public notice requirements.

Section 3: Committee Quorum

A majority of the members of a committee constitutes a quorum. In the event that a quorum is not established within fifteen (15) minutes of the noticed start time of the meeting, the meeting may be cancelled by the Committee Chairperson. In the alternative, the Committee Chairperson may elect to wait an additional 15 minutes before taking action to cancel the meeting. In determining whether a meeting should be canceled, the Committee Chairperson should consider factors such as whether the delay is caused by conflicting meeting schedules; if prior notice from the member was given that he or she would be late; or if there is a need to take official action on important item(s) of business once a quorum has been established.

If the meeting is declared canceled, discussion of the items noticed on the agenda may continue, but no formal action can be taken. The Commission staff will prepare a record of the discussion, but the record will reflect that the meeting was canceled due to a lack of a quorum and that no final action was taken on the items discussed. The Commission staff shall keep a record of Committee members' attendance. The attendance record shall reflect absences and tardiness (arrival after the fifteen (15) minute scheduled start time) and shall indicate whether the absence or tardiness was excused or unexcused. A Commissioner shall notify the Committee Chairperson or the Commission staff of an anticipated absence. If during the calendar year a Committee member accumulates three (3) unexcused absences and/or late arrivals, Commission staff shall so advise the Chairperson and the Chairperson may, in his or her discretion, remove the member from the Committee. If removed, the member can be considered for reappointment by the Chairperson, as appropriate.

Section 4: Education Committee

This standing Committee is responsible for developing and implementing plans to educate the public regarding the Commission's function and jurisdiction. The Committee shall promote public awareness and participation in city government by being an advocate for public understanding of their rights under the various ordinances and Acts over which the Commission has jurisdiction. The Committee will disseminate the various ordinances and Acts to city officials, employees, boards and commissions, candidates and other persons having an interest in city government with the intention of ensuring the understanding of their rights and obligations with respect to local laws and supporting state laws that are intended to ensure fairness, openness, honesty and integrity in city government.

Section 5: Sunshine Committee

This standing Committee is responsible for developing appropriate goals and procedures for implementation of the City of Oakland Sunshine Ordinance for consideration by the Commission. In addition it shall advise the Commission on an administrative process of review and enforcement of the Sunshine Ordinance, on developing education for citywide training for the Sunshine Ordinance, and on proposed amendments to the Sunshine Ordinance for adoption by the City Council. This Committee shall also assist the

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Commission in advising the City Council and Board of Port Commissioners, and provide information to other City departments and covered bodies on ways in which to implement the Sunshine Ordinance.

Section 6: Lobbyist Registration And Campaign Finance Committee

This standing Committee is responsible for the periodic review and policy development of the Lobbyist Registration Ordinance, Limited Public Financing Act, and the Oakland Campaign Reform Act. Its duties are to review compliance with, and the effectiveness of, these ordinances; make recommendations to the Commission regarding specific amendments; and direct the preparation of any report or information to better advise the public and the regulated community of their rights and obligations under these laws.

ARTICLE VII - Meetings

Section 1: Quorum

At all meetings of the full Commission, the presence of a majority of the Commissioners shall constitute a quorum for the purposes of conducting a meeting. Once a quorum is established for the purposes of conducting a meeting, a majority vote of the Commissioners present is required to take action on an agenda item. Whenever during the meeting there is less than a quorum present, a motion to adjourn is appropriate; absent objection, the debate can be continued, but no vote taken, except to adjourn.

Section 2. Public Input

All interested persons shall be allowed to express their views (oral or written) at regular Commission or standing Committee meetings regarding matters within the jurisdiction of the Commission and at special Commission or standing Committee meetings on matters that are agenda items. However, the Commission agenda need not provide an opportunity for members of the public to address the Commission on any item that has already been considered by a committee composed exclusively of Commission members, at a public meeting wherein all interested members of the public were afforded the opportunity to address the Committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the Committee heard the item, as determined by the Commission.

The Commission shall urge the public, in the strongest terms possible, not to make complaints at public meetings since the public disclosure of such complaints may undermine any subsequent investigation undertaken.

Section 3: Public Input Agenda Items

A person wishing to speak must submit his or her name and the item on the agenda he or she wishes to discuss, if any, to the Commission staff before being recognized by the

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Chairperson. A person wishing to speak must complete a speaker card for each agenda item on which he/she wishes to speak. Multiple agenda items cannot be listed on one speaker card. Speakers' cards must be received by the Commission Staff prior to Commission or Committee action on Modifications to the Agenda, unless consent to speak is given by the Chairperson or a majority of the Commission or Committee. If a speaker signs up to speak on multiple items listed on the agenda, the Chairperson may rule that the speaker be given an appropriate allocation of time to address all issues at one time (cumulative) before the items are called.

Each agenda for regular or special meetings of the Commission or its standing Committees at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the Commission prior to action thereupon. Each person wishing to speak on an item shall be permitted to speak once based upon previously adopted time constraints which are reasonable and uniformly applied.

Section 4: Public Input Non Agendized Items (Open Forum)

All regular Commission and standing committee meetings shall provide the opportunity for public comment on items not on the agenda but within the jurisdiction of the Commission. Such opportunities for public comment, Open Forum, shall appear on the agenda prior to adjournment. Each person wishing to speak on such items shall be allowed to do so, after filling out a speaker's card. The Commission may limit the time for public comment under Open Forum to a total of 15 minutes. Members of the public may, after submittal of speaker cards, address the Commission regarding any items of public interest that are not on the meeting agenda. Ordinarily, each speaker may speak for up to three minutes, but the Chairperson has the discretion to limit or extend the time. Open Forum speaker cards are to be numbered by the Commission staff in the order received.

Section 5: Identification of Speaker

Persons addressing the Commission or Committees shall state their names and the organization they are representing, if any. They shall confine their remarks to the subject under discussion, unless they are speaking during the Open Forum portion of the Agenda.

Section 6: Chairperson

The Chairperson may request of speakers on each item where eight or more speakers have submitted speaker's cards that speakers organize by sides with designated speakers in the interest of time.

The Chairperson shall maintain order in the chamber, have authority to refuse the floor to any person, and may limit or extend the time allocated to any speaker. The Chairperson may rule a public speaker out of order if:

1. the speaker is speaking beyond the allocated time limit,

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2. if the speaker's remarks are not relevant to the agenda item or are repetitious; or,
3. if the manner, tone and content of the speaker's remarks are disruptive (disturb the peace and good order of the meeting), attack the character of individuals or are abusive (e.g. vulgar or obscene language).

The public has the right to criticize policies, procedures, programs or services of the City, the Commission or of any other aspect of the City's or Commission's proposals or activities, or the acts or omissions of the Commission or its staff or other public employees. The Commission shall not abridge or prohibit public criticism on the basis that the performance of one or more public employees is implicated. Nothing in this section confers any privilege or protection beyond that which is otherwise provided by law.

Section 7: Meetings

The Commission and its standing committees shall hold regular meetings at an established time and place suitable for their purposes. 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 City Council, and the public press at least seventy-two hours before the meeting is scheduled to convene. (Public Ethics Commission Ordinance 11961 C.M.S., § 6.)

Section 8: Meeting Minutes

Minutes shall be taken at every regular and special Commission and standing Committee meeting and shall be approved by majority vote of the Commission or respective Committee.

Section 9: Regular Commission Meetings

Generally, regular Commission meetings shall be held on the first Monday of each month at 6:30 p.m., or as otherwise set forth in the published calendar and posted on the internet with the proper notice. Meetings shall be held in Oakland City Hall, One Frank Ogawa Plaza in the City of Oakland, California. ~~The Commission is on recess in the month of August shall recess during one month each year to be determined by the Commission.~~

Section 10: Notice and Conduct of Regular Commission Meetings

Notices and agendas of all regular Commission meetings shall be filed with the City Clerk's Office and posted on an exterior bulletin board accessible twenty-four hours a day. Notice of regular meetings shall be posted at least ten days before the meeting.

Action may only be taken on items that comply with the notice provisions of the Sunshine Ordinance and the Brown Act.

Section 11: Notice and Conduct of Special Commission and Standing Committee Meetings

Special Commission and standing committee meetings may be called at any time by the Chairperson or by a majority of the Commissioners or standing committee members. Notice of all special meetings shall be posted on an exterior bulletin board and filed with the Office of the City Clerk at least 48 hours (excluding Saturday, Sunday, and Holidays) before the time of the meeting set forth in the Agenda. All other notice requirements of the Sunshine Ordinance and the Brown Act shall be met.

Section 12: Closed Sessions

The Commission is authorized to hold closed (non-public) sessions at regular and special meetings for purposes of confidential discussions such as pending litigation. Upon consultation with the legal advisor from the City Attorney's Office, and the determination that a closed session is both authorized and appropriate under the circumstances, the Commission may call for a closed session. Appropriate notice will be given of all closed sessions.

Section 13: Recess

The Commission shall recess for the period of August 1 through August 31 a period of one month each year which shall be known as the "annual recess". During the annual recess the Commission may be convened by the Chairperson for special Commission meetings or by the Chairperson of a standing committee for standing committee meetings.

ARTICLE VIII - Agenda Requirements

Section 1: Agenda Preparation

The Commission staff shall work with the Commission Chairperson and standing Committee Chairpersons to develop the agenda for all meetings. The agenda must be approved by the appropriate Chairperson and shall contain a meaningful description of each item to be transacted or discussed at the Commission or Committee meeting so that a person can reasonably determine if his or her interests may be affected by the item.

Section 2: Consent Calendar

A consent calendar is the portion of the printed agenda which lists routine matters that are expected to be non-controversial and on which there are no speakers. There will be no separate discussions on a Consent Calendar item unless prior to its adoption, a request is made by a Commission member or the public in which event the matter shall be removed from the consent Calendar and considered as a separate item. However, no complaint on the Consent Calendar shall be referred for further consideration, pursuant to the General Complaint procedures, unless requested by two or more members of the Commission, on

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their own initiative or at the request of any party to the complaint who appears to be heard on the matter, or who provides in writing such request to the Executive Director.

ARTICLE IX - Voting

Section 1: Voting, Abstention and Recusal

Each member present at a Commission or standing Committee meeting shall vote on all matters put to a vote, unless the member is excused from voting by a motion adopted by a majority of the members present, or unless the member has been advised to recuse himself or herself from the vote by the City Attorney because he or she may have a conflict of interest regarding the item.

Section 2: Voting by Proxy

Voting by proxy is prohibited.

ARTICLE X - Parliamentary Procedure

Section 1: Robert's Rules of Order (Newly Revised)

The business of the Commission and its standing Committees shall be conducted, so far as it is practical in accordance with parliamentary rules as contained in Robert's Rules of Order Newly Revised, except as modified by these rules and in accordance with State open meeting laws and local open meeting laws, including the Oakland Sunshine Ordinance. The City Attorney, or such other person as may be designated by the Chairperson, upon approval of the Commission shall serve as the official parliamentarian for meetings of the Commission.

ARTICLE XI - Standards of Conduct

Section 1: Code of Conduct

The Commissioners collectively and individually will respect and honor their appointed role as a public trust and strive to maintain public confidence in the Commission's role in the government of the City of Oakland. All appointees to the Commission must meet the minimum qualifications set forth in section 5 of the Ordinance and section 3 of these Bylaws. In addition, in the belief that is essential to the success of the Commission that the Commissioners adhere to the highest standards of conduct, the following standards of behavior apply to the Commission:

STANDARD 1: A Commissioner shall uphold the integrity and independence of the Commission and shall encourage and promote integrity in government by education and example.

STANDARD 2: A Commissioner shall faithfully perform all duties of office.

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- STANDARD 3: A Commissioner shall respect and adhere to the American ideals of government, the rule of law, the principles of public administration and high ethical conduct in the performance of public duties.
- STANDARD 4: A Commissioner shall represent and work for the common good of the City and not for private interest.
- STANDARD 5: A Commissioner shall refrain from accepting gifts or favors or promises of future benefits which might compromise or tend to impair independence of judgment or action.
- STANDARD 6: A Commissioner shall ensure fair and equitable consideration of public policy issues.
- STANDARD 7: A Commissioner shall avoid impropriety and the appearance of impropriety in all of the Commissioner's activities.
- A. A Commissioner shall respect and comply with applicable laws and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the Public Ethics Commission. In addition, Commissioners should avoid the appearance of impropriety in situations where a person aware of the facts might reasonably entertain a doubt that the Commissioner would be able to act with integrity, impartiality and competence.
 - B. A Commissioner shall not allow family, social, political or other relationships to influence the Commissioner's conduct or judgment in matters before the Commission, nor shall a Commissioner convey or permit others to convey the impression that any individual is in a special position to influence the Commissioner.
 - C. A Commissioner shall decline any employment incompatible with public duty.
- STANDARD 8: A Commissioner shall fairly and objectively enforce the City's ethics laws and regulations and perform his or her duties impartially and diligently including providing fair and equal treatment for all persons and matters coming before the Commission.
- STANDARD 9: A Commissioner shall learn and study the background and purposes of important items of business before voting.

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- STANDARD 10: A Commissioner shall faithfully attend all sessions of the Commission and assigned Committees unless unable to do so because of disability or some other compelling reason.
- STANDARD 11: A Commissioner shall be patient, dignified, respectful, and courteous to persons with whom the Commissioner deals in an official capacity, and shall require similar conduct of staff and personnel under the Commissioner's direction and control.
- STANDARD 12: A Commissioner shall be attentive during all public discussions at Commission and Committee meetings and avoid interrupting other speakers, including other Commissioners, except as may be permitted by Robert's Rules of Order, Newly Revised.
- STANDARD 13: A Commissioner shall refrain from abusive conduct or verbal attacks toward other members of the Commission, staff or public, or other personal comments not germane to the issues before the Commission.
- STANDARD 14: A Commissioner shall perform his or her duties without bias or prejudice. A Commissioner shall not in the performance of his or her duties by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, health status, age, sexual orientation or socioeconomic status.
- STANDARD 15: A Commissioner shall so conduct his or her other activities as to minimize the risk of conflict with his or her obligations as a Commissioner.
- STANDARD 16: The Commission shall conduct its business in a timely manner and in public, with full disclosure of policies, procedures, and decision-making processes, except in those matters as specified by the Brown Act and Oakland Sunshine Ordinance that may be dealt with in closed session.
- STANDARD 17: A Commissioner shall refrain from inappropriate political activity.

Commissioners are entitled to their personal view on political questions; they are not required to surrender their rights or opinions as citizens of Oakland. They are prohibited pursuant to section 5 (c) of the ordinance and section 3 of these bylaws from endorsing, publicly supporting, publicly opposing, or working on behalf of any candidate or measure in an Oakland election during their tenure or for one year thereafter.

Section 2. Representation of the Commission

The spokesperson for the Commission shall be the Chairperson, the Vice-Chair if the Chairperson is unavailable, or the Chairperson's appointed representative. In the absence of the Chair, Vice-Chair, or other designee, the Executive Director shall represent the Commission. Whenever the Commission learns that a view, position or opinion of the Ethics Commission as a whole has been misinterpreted or misrepresented in the media, at a hearing, or in a public forum, the Commission, through its spokesperson, shall make every reasonable effort to clarify the Commission's true position as soon as practicable.

Whenever a Commissioner or the Executive Director communicates with the news media, or appears at a public hearing or before another City Agency or Department to discuss existing or proposed legislation or policy, such person will make every reasonable effort to explain to the their audience whether they are expressing an opinion, view or position that is individually held or a view, position or opinion of the Ethics Commission as a whole.

ARTICLE XII - Bylaws Amendments

These bylaws shall be reviewed annually or as necessary. The Commission may adopt bylaws amendments at any regular meeting of the Commission by a majority vote of those present, provided such proposed amendments are circulated in writing to all Commissioners at least ten (10) days prior to such meeting, and ten (10) day's public notice shall be posted. The Commission shall transmit the proposed bylaws amendments to the City Council within seven calendar days of adoption. The bylaws amendments become effective 60 days after the date of adoption by the Commission unless before the expiration of this 60 day period two-thirds of all the members of the City Council vote to veto the bylaws amendments.

Public Ethics Commission Pending Complaints

Date Received	Complaint Number	Name of Complainant	Respondents	Date of Occurrence	Issues	Status
5/11/12	12-05			4/23/12	Alleged use of city staff resources for campaign purposes. Complainant alleges she never gave her email address to a campaign but did give it to city staff; later received a campaign email from respondent	Complaint received
4/26/12	12-04				Alleges respondent failed to report \$37,500 in payments from a campaign group tied to a lobbyist for a group competing for the Coliseum mgmt contract (alleges failure to report payment and a COI issue)	Complaint received
4/4/12	12-03			Dec 2009 and annually thereafter	Alleges respondents failed to provide adequate public notice about discussions and decisions related to the payment of "holiday bonuses," adds that discussion of bonuses was never put on open session agenda	Complaint received
3/8/12	12-02			3/7/12	Complaint alleges respondent's staff attended a Planning and Zoning Commission meeting regarding an entity that was adjacent to her house	Complaint received (not in PEC jurisdiction)
2/22/12	12-01				Complaint questions why the City needs 3 assistant city managers	Complaint received
10/20/11	11-05				Alleges that respondent inappropriately used her organizational title when she signed on as an opponent of a ballot measure in the voter handbook	Complaint received

9/12/11	11-04			9/28/11	Complaint says respondent Commission should not schedule an evening hearing on 9/28, which was Rosh Hashanah at sundown; a group had requested the meeting be rescheduled	Complaint received (not in PEC jurisdiction)
8/23/11	11-03			June 2011	Complainant expresses concerns about the source of concert tickets allegedly in the possession of respondent	Complaint received
8/9/11	11-02			5/15/11	Complainant contests traffic ticket and legal process	Complaint received (not in PEC jurisdiction)
4-4-11	11-01	PEC initiated	ABC Security and/or Ana Chretien; Marina Security and/or Sam Tadesse	Various; approx. betw 3/1/10/7/10 and 7/27/10	OCRA; §3.12.140	Staff is investigating
12-7-10	10-30	Sanjiv Handa	Oakland Parking Division	Ongoing	Oakland Sunshine Ordinance --- Alleged failure to timely produce records	Staff is investigating
11-1-10	10-28	Ralph Kanz	Ala. Demo. Central Comm.; OakPAC	October 29, 2010	OCRA; §3.12.230	Staff is investigating
10-13-10	10-26	Ralph Kanz	Jean Quan Floyd Huen	June 30, 2010 and ongoing	OCRA; §3.12.050; 3.12.090	Staff is investigating
10-13-10	10-25	Ralph Kanz	Don Perata	June 30, 2010 and ongoing	OCRA; §3.12.090(A)(D)	Staff is investigating

9/14/10	10-21	Jean Quan	Don Perata, Paul Kinney; California Correctional Peace Officers Association; Ronald T. Dreisback; T. Gary Rogers; Ed DeSilva; Richard Lee	Ongoing	OCRA violations	Staff is investigating
8/2/10	10-20	Sanjiv Handa	Various Business Improvement Districts & Community Benefit Districts	Various between June 3 and August 2, 2010	Sunshine Ordinance; public meetings	Staff is investigating
7/2/10	10-16	Gwilym Martin	Joseph Yew, Finance	June 18, 2010	Sunshine Ordinance; production of records	Staff is investigating
3/23/10	10-07	Sanjiv Handa	Victor Uno, Joseph Haraburda, Scott Peterson, Sharon Cornu, Barry Luboviski, Phil Tagami	January 1, 2007 to present	Lobbyist Registration Act	Staff is investigating
3/3/10	10-05	David Mix	Oakland City Council	3/2/10	Oakland Sunshine Ordinance	Staff is directed to explore settlement in lieu of hearing.
11/17/09	09-15	Anthony Moglia	Jean Quan	Ongoing	Alleged misuse of City resources	Staff is directed to develop guidelines for use of City's electronic media.
09/16/09	09-12	Marleen Sacks	Office of the City Attorney (Mark Morodomi)	ongoing	Sunshine Ordinance; Public Records Act	Commission is conducting legislative hearings in lieu of adjudication.
2/7/09	09-03	John Klein	City Council President Jane Brunner	February 3, 2009	Sunshine Ordinance -- Allocation of speaker time.	Awaiting report from City Attorney.

11/6/08	08-18	David Mix	Raul Godinez	August 2008	Allegations involving Sunshine Ordinance -- Public Records Request	Commission jurisdiction reserved
11/6/08	08-13	David Mix	Leroy Griffin	August 2008	Allegations involving Sunshine Ordinance -- Public Records Request	Commission jurisdiction reserved
3/28/08	08-04	Daniel Vanderpriem	Bill Noland, Deborah Edgerly	Ongoing since 12/07	Allegations involving production of City records	Commission jurisdiction reserved.
2/20/07	07-03	Sanjiv Handa	Ignacio De La Fuente, Larry Reid, Jane Brunner and Jean Quan	December 19, 2006	Speaker cards not accepted because they were submitted after the 8 p.m. deadline for turning in cards.	Commission jurisdiction reserved.
3/18/03	03-02	David Mix	Oakland Museum Dept.	3/11/03	Allegation of Sunshine Ordinance and Public Records Act violation.	Commission jurisdiction reserved.

CITY OF OAKLAND
Public Ethics Commission

Richard Unger, Chair
Aspen Baker
Amy Dunning
Lloyd Farnham
Monique Rivera



Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
DATE: May 9, 2012
RE: Complaint Dismissals

At the Commission's May 2, 2011, public meeting, the Commission authorized the Executive Director to notify the complainant of the Commission's intent to dismiss the following cases:

03-02 (David Mix)
07-03 (Sanjiv Handa)
08-04 (Daniel Vanderpriem)
08-13 (David Mix)
08-18 (David Mix)

On June 30th, former Executive Director Daniel Purnell mailed a "Notice of Pending Dismissal" to each of the complainants alerting them that, if the Commission receives no further information from the complainant, the Commission will dismiss their complaint at the next Commission meeting.

Attached is the staff report from former Executive Director Daniel Purnell recommending dismissal of the above cases at the May 2, 2011 meeting.

Recommendation

Since there is no evidence that any of the complainants sent additional information in response to these notices, staff recommends that the Commission dismiss each of the above complaints at the June 4, 2012, meeting.

CITY OF OAKLAND
Public Ethics Commission

Richard Unger, *Chair*
 Ai Mori, *Vice-Chair*
 Alex Paul
 Amy Dunning
 Lloyd Farnham
 Christopher Young
 Aspen Baker



Daniel D. Purnell, Executive Director

One Frank Ogawa Plaza, 4th Floor, Oakland, CA 94612 (510) 238-3593 Fax: (510) 238-3315

TO: Public Ethics Commission
FROM: Daniel Purnell
DATE: May 2, 2011

RE: A Staff Report Regarding Complaints Over Which The Commission Has Retained Jurisdiction

At an earlier meeting, the Commission requested a status report on those complaints which, over the years, the Commission chose to retain jurisdiction. The following chart summarizes the allegations and the Commission's previous action with respect to each complaint:

COMPLAINT	ISSUE	ACTION
03-02 (David Mix)	Mr. Mix alleged that the East Bay Zoological Society, Oakland Museum Department, and the Chabot Space and Science Center failed to provide records he requested under the California Public Records Act and the Oakland Sunshine Ordinance.	The Commission dismissed the complaint as to the Chabot Space and Science Center and the Zoological Society but retained jurisdiction as to the Oakland Museum Department to permit Mr. Mix to identify and obtain copies of any public record he seeks from the Museum Department.
07-03 (Sanjiv Handa)	Mr. Handa alleged: 1) the City Council violated the Sunshine Ordinance by depriving him the opportunity to speak on four agenda items at the City Council's December 19, 2006, meeting; 2) the [previous] 8:00 p.m. deadline for filing speaker cards is "arbitrary, capricious and contrary to the spirit of the	The Commission took action to: 1) dismiss the allegations that the City Council's 8:00 p.m. deadline for submitting speaker cards is arbitrary and capricious, and that City Council Committees are arbitrarily reducing speaker time to less than one minute per item and, 2) reserve jurisdiction over allegations that Mr. Handa was deprived of the opportunity to address Item Nos. 32 through 36 on the City Council

	Sunshine Ordinance"; and 3) City Council committee chairs have reduced speaker time to less than one minute per item and capped total speaking time at five minutes.	agenda for the December 19, 2006, meeting until the Commission had an opportunity to review City Council public speaker procedures. (The Commission also requested Mr. Handa to continue his efforts to locate the missing speaker cards for the items in question.) ¹
08-02 (Sanjiv Handa)	Mr. Handa alleged that the City Council's Community and Economic Development Committee ("CEDA Committee") failed to make findings required under the Sunshine Ordinance to permit the Committee to consider agenda-related material not previously included in the ten-day agenda package.	The Commission moved, seconded and adopted a motion to dismiss Complaint No. 08-02 on grounds that the CEDA Committee agreed to agendize a cure and correction of Item 7 on the Committee's February 26, 2008, agenda pertaining to the receipt of an economic strategy report from the Oakland Chamber of Commerce. This dismissal was to be conditional upon performance of the cure and correction. ²
08-04 (Daniel Vanderprien)	Mr. Vanderprien alleged he requested documents from the Finance and Management Agency and had not received them as of the time of the complaint.	Commission staff made several attempts to follow-up with Mr. Vanderprien regarding his record request, specifically whether his request remained unfulfilled. Mr. Vanderprien never responded and Commission staff has received no further communication regarding this complaint.
08-13 (David Mix)	Mr. Mix alleged that the City of Oakland violated the Oakland Sunshine Ordinance and Public Records Act by failing to provide him with copies of records pertaining to the Oakland Wildfire Assessment District.	The Commission postponed final consideration of this complaint and directed staff to re-agendize it a later meeting based on a promised and anticipated production of records from the Wildfire Assessment District.

¹ The City Council has substantially revised its rules for public speakers since the Commission considered this complaint.

² The CEDA Committee agendized and completed a cure and correction at its meeting of June 10, 2008. Mr. Handa had an opportunity to speak under the item. It appears that Complaint No. 08-02 was inadvertently left on the "reserved jurisdiction" list.

08-18 (David Mix)	Mr. Mix alleged that the Public Works Agency failed to produce a large variety and number of records he requested pertaining to the Landscaping and Lighting Assessment District ("LLAD").	The Commission directed staff to work with Mr. Mix and representatives of the Public Works Agency to confirm whether: 1) there is any record of a response to an email cited on pg 12 of the April 6, 2009, staff report, 2) there is any record pertaining to "Neighbors For A Safe And Green Oakland", and 3) whether the City has any contractual or legal right to the "call sheets" purportedly created by Francisco & Associates in regard to the LLAD vote. ³
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Commission staff observes that all of the above complaints pertain to issues arising under the Oakland Sunshine Ordinance. All but one (No. 07-03) raise issues regarding the production of records. Commission staff notes that Commission jurisdiction could be re-invoked at any time simply upon the filing of a new request for any disputed document. The remaining complaint regarding City Council speaker rules could be addressed by an informational report evaluating the new rules or, as before, by considering any new complaint that alleges violation of the Sunshine Ordinance by the application of the current public speaking rules.

The Commission has several options regarding the above complaints. It may simply maintain its ongoing jurisdiction over the complaints. It could direct staff to contact each of the complaining parties to determine whether they still have an interest in the underlying records or issue(s) presented and report back separately to the Commission. Or the Commission could notify the complaining parties of its intent to dismiss some or all of the above complaints unless they object and provide a good reason why the complaints should not be dismissed. While more time intensive, Commission staff recommends that the Commission direct staff to proceed with the second option.

Respectfully submitted,

Daniel D. Purnell
Executive Director

³ Mr. Mix subsequently filed Complaint No. 10-03 on February 22, 2010, alleging that the City Attorney's Office improperly asserted an attorney-client privilege over a response to the email referenced in the April 6, 2009, staff report. At its meeting of June 7, 2010, the Commission dismissed Complaint No. 10-03 on grounds that the City Attorney's justification for redacting portions of the email could be consistent with provisions of the attorney-client privilege.

In its preliminary staff report to complaint No. 08-18, Commission staff reported that 1) Public Works Agency representatives said that it possessed no records pertaining to an organization known as "Neighbors For A Safe And Green Oakland" and 2) the City's contractor Francisco & Assoc. may have provided property/parcel information to a sub-contractor (Manross) so that Manross could conduct the polling and research it was retained to do by the City. She said any such "call sheets" were not provided to the City. Commission staff has not analyzed whether the City had a legal or contractual right to any such "call sheets."

CITY OF OAKLAND
Public Ethics Commission

Richard Unger, Chair
 Aspen Baker
 Amy Dunning
 Lloyd Farnham
 Monique Rivera



Whitney Barazoto, Executive Director

TO: Public Ethics Commission
 FROM: Whitney Barazoto, Executive Director
 DATE: May 22, 2012
 RE: Mandated City Council Member Salary Adjustment

Each year, the Commission is responsible for adjusting the City Councilmember salary level according to the increase to the Consumer Price Index (CPI) for the preceding year, and for making additional salary increases as deemed necessary by the Commission. This memorandum provides background information for the Commission to do the following:

- 1) adjust Councilmember salaries per the CPI increase as mandated by law, and
- 2) determine whether to adjust Councilmember salaries beyond the required increase, up to a combined total of 5%.

Background

Section 202 of the City Charter establishes to Public Ethics Commission to, among other things, "set City Councilmember compensation" in the following manner:

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 City Charter, Sec. 202(c)]

Payroll adjustments take effect on the first payroll period after the beginning of the new fiscal year, which will begin on July 1, 2012.

In June 2011, the Commission issued a resolution to increase Councilmember salaries by the required CPI percentage increase while requesting that the City Council decline to accept the salary adjustment in light of significant budget shortfalls facing the City for fiscal years 2011-13. Councilmembers generally have declined salary increases in the last 3 years and currently receive the salary authorized by the Commission in June 2009, which is \$72,859.28, or 4.3% less than their current authorized salary, except for Councilmember Elizabeth Schaaf, who takes \$67,709, or 11% less than the authorized salary.

The table below shows salary increases authorized by the Commission since 2004.

City Council Salary Adjustments

Year	PEC Authorized Increase (%)	Salary Amount with Increase (\$)
June 2011	2.8 (CPI)	76,172.62
June 2010	1.7 (CPI)	74,097.88
June 2009	0.8 (CPI)	72,859.28*
June 2008	2.9 (CPI)	72,281.04
June 2007	5	70,243.94
July 2006	4	66,899.04
July 2005	2.1 (CPI)	64,326.08
June 2004	5	63,003.94

*This is the current salary taken by all Councilmembers except Councilmember Elizabeth Schaaf, who takes a salary of \$67,709.

The Commission now has the duty to adjust the annual salary according to the Consumer Price Index. Over the last 12 months, the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose metropolitan area rose 2.1 percent, according to the U.S. Bureau of Labor Statistics.¹ With this increase, the current salary for City Councilmembers would be adjusted to \$77,772.25.

In addition to the required increase per CPI, the Commission has the discretion to increase City Councilmember salaries by an additional 2.9 percent, for a maximum total potential increase of 5 percent. In determining whether to authorize an additional discretionary increase, the Commission may wish to consider that the City still is experiencing significant budget shortfalls and, with the elimination of \$28 million Redevelopment funding effective February 2012, has made additional cuts, reorganizations, and layoffs across City government. City employees are still subject to mandatory business shutdown days and leave without pay for a portion of their salaries, to continue until June 2013.

Recommendation

Staff recommends that the Commission issue a resolution to adjust City Councilmember salaries by the required 2.1 percent according to the Consumer Price Index and to request that Councilmembers decline the increase due to ongoing budget shortfalls. Attached is a draft resolution to this effect.

¹ U.S. Bureau of Labor Statistics. San Francisco Region Consumer Price Index. April 2011 – April 2012. <http://www.bls.gov/ro9/cpisanf.htm>. Website accessed May 22, 2012.

CITY OF OAKLAND
Public Ethics Commission

[DRAFT]

RESOLUTION NO. 12-01
[Proposed 6-4-12]



By action of the Oakland Public Ethics Commission:

WHEREAS, Oakland City Charter Section 202(c) requires the Public Ethics Commission (Commission) to annually adjust City Councilmember salaries by the increase in the consumer price index over the preceding year and to optionally adjust salaries beyond the increase in the consumer price index up to a total of five percent; and

WHEREAS, the current Commission-authorized salary for Oakland City Councilmembers is \$76,172.62 per year; and

WHEREAS, Oakland City Councilmembers are currently receiving a salary of \$72,859.28 or less; and

WHEREAS, the consumer price index for the San Francisco Bay Area increased by a total of 2.1 percent between April 2011 and April 2012; and

WHEREAS, Oakland continues to face general fund budget shortfalls for Fiscal Years 2011-2012 and 2012-2013, compounded by the loss of \$28 million in Redevelopment funds effective February 2012; and

WHEREAS, the City is experiencing layoffs, mandatory business shut-downs and reductions in critical and discretionary City services to bring the City's finances into balance;

Now, therefore be it:

RESOLVED, that the Commission does hereby increase and adjust the salary for the office of City Councilmember by 2.1 percent effective as of the first payroll period of Fiscal Year 2012-2013 as mandated by City Charter Section 202(c); and

RESOLVED, that the Commission respectfully requests that the City Council decline to accept the salary adjustment mandated by City Charter Section 202(c) due to the continued budgetary shortfalls facing the City heading into Fiscal Year 2012-2013.

CERTIFICATION RE: APPROVAL OF RESOLUTION

The foregoing Resolution was presented for approval at a duly noticed meeting of the City of Oakland Public Ethics Commission held on June 4, 2012, where a quorum of the membership of the Commission was present. The Commission approved the resolution by a vote of _____ to _____.

I hereby certify that the foregoing is true and correct.

Whitney Barazoto, Executive Director
Oakland Public Ethics Commission

Date

CITY OF OAKLAND
Public Ethics Commission

Richard Unger, Chair
 Aspen Baker
 Amy Dunning
 Lloyd Farnham
 Monique Rivera



Whitney Barazoto, Executive Director

TO: Public Ethics Commission
 FROM: Whitney Barazoto, Executive Director
 DATE: May 22, 2012
 RE: Limited Public Financing Act

The Limited Public Financing Act was adopted in 1999 to provide limited monetary assistance to candidates for local elective office in order to help ensure that all individuals have a fair and equal opportunity to participate in the elective and governmental process. The Act was amended in 2010 to set some parameters around who may participate and how funds may be used. The program now is essentially a reimbursement system for district city council candidates only.

The process for applying for these funds begins after the City Clerk certifies the names of all candidates to appear on the ballot, shortly after the close of nominations on August 10, which is 88 days before the November election. Within 7 days after the City Clerk certifies the names of candidates, the Commission must determine at a public meeting whether the amount of money in the Election Campaign Fund is adequate to provide the maximum amount of funds to potentially eligible candidates, and if not, the Commission will disburse available funds on a pro rata or other equitable basis. The meeting for the Commission to make that determination will likely occur sometime in mid to late August.

Meanwhile, the Commission at its March meeting expressed interest in discussing the Limited Public Financing program and funding information in order to determine how much money will be available and whether to administer the program for the 2012 election cycle. The purpose of this memorandum is to provide the Commission with funding and legal information necessary to make that initial determination.

Funds Available

The Limited Public Financing Election Campaign Fund has a remaining balance of \$51,949.68 for fiscal year 2011-12, which can be used until June 30, 2012, or potentially rolled over into the 2012-13 fiscal year. The budgeted allocation for fiscal year 2012-13 is \$77,500, to be available after July 1. The combined total that will likely be available for the November 2012 election is \$129,449.68, pending approval of the carryover of funds through the City Administrator's midcycle budget review process to be completed by the end of June 2012.

Potential Candidates Accessing Public Funds

There are four district seats open in the November 2012 election: District 1, District 3, District 5, and District 7. So far, the City Clerk’s office estimates that roughly 22 candidates currently are campaigning for district council seats.

To understand how the available amount of funds may compare to the maximum that could be given to each candidate if the account had been fully funded by the City Council, below is a table outlining how the funding parameters play out in the context of the 2012 election.

Limited Public Financing Funds

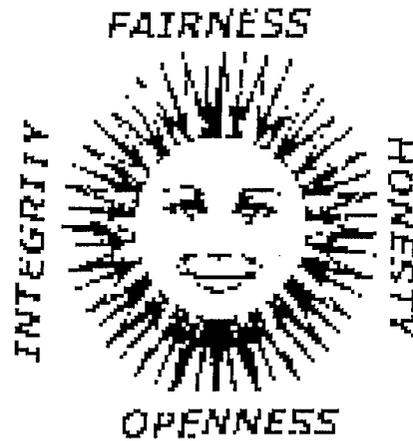
District	LPFA Voluntary Expenditure Ceiling	Maximum Potential LPFA Amount for Each Candidate (if fully funded)	Number of Candidates Currently Campaigning	Estimated Amount Available to Each Candidate (if all 22 participated)
1	\$111,000	\$33,300	8	\$5442.77*
3	\$119,000	\$35,700	8	
5	\$124,000	\$37,200	2	
7	\$127,000	\$38,100	4	

*This amount represents the total funds available \$129,449.68, less 7.5% for anticipated administrative costs incurred by the Public Ethics Commission (\$9708.72), divided by 22 candidates.

City Council and Commission Authority to Suspend the Program

Under the Limited Public Financing Act, the City Council has the authority to appropriate funds into the Election Campaign Fund in an amount sufficient to fund all candidates eligible to receive public financing for the office of District City Councilmember. The Public Ethics Commission must submit to Council a written estimate of the amount necessary, based on consideration of anticipated campaign activity, administrative costs, and existing funds within the account. Other than making a recommendation to the City Council, the Public Ethics Commission has no express authority to suspend funding or halt administration of the Limited Public Financing program. Once funds are appropriated and candidates are certified to appear on the ballot, the Commission is required to determine whether the amount of money in the Election Campaign Fund is adequate to provide the maximum amount of funds to potentially eligible candidates. If funds are not adequate, then “the Commission shall order the disbursement of available funds on a *pro rata* or other equitable basis.” (O.M.C. Chapter 3.13.065.)

In July 2003, the City Council passed an ordinance suspending the Limited Public Financing Program for the 2004 municipal elections due to budget shortfalls during the 2003-05 fiscal years. The program resumed as usual the following year.



**CITY OF OAKLAND
Public Ethics Commission**

**ANNUAL REPORT
2011**

DRAFT

CITY OF OAKLAND Public Ethics Commission

Introduction

The Public Ethics Commission for the City of Oakland presents this annual report to provide an overview of the Commission's significant activities in 2011. While the Commission closed 11 cases alleging violations of various campaign finance, conflict of interest, limited public financing, and open government laws, it also devoted considerable attention to developing recommendations to amend existing laws in order to better achieve the goals sought by these laws. Most notable are developing amendments to the Oakland Campaign Finance Reform Act and conducting public hearings to improve public access to City records.

Along with these accomplishments, the Commission faced significant challenges in 2011. Both of the Commission's only two staff resigned and had departed by the end of June, 2011, and one of the two positions was eliminated during development of the City's 2011-12 fiscal year budget. The Commission now has an executive director who began in April, 2012, but still retains only one budgeted position to fulfill dozens of responsibilities mandated by local law.

This report seeks to provide a snapshot of the Commission's work in 2011, as well as the challenges it faced during the second half of the calendar year. With this information, the Commission seeks your support in rebuilding its capacity and renewing its ability to ensure "fairness, openness, honesty, and integrity" in government for the citizens of Oakland.

Commission Purpose and Responsibilities

In November, 1996, the citizens of Oakland added Section 202 to the City Charter to establish the Oakland Public Ethics Commission. The Commission was created with the goal of ensuring "fairness, openness, honesty and integrity" in city government.

The City Charter requires the Commission to oversee compliance with Oakland's Campaign Reform Act (OCRA), Conflict of Interest Code, City Council Code of Conduct, Sunshine Ordinance, the Limited Public Financing Act, the Lobbyist Registration Act and Oakland's False Endorsement in Campaign Literature Act. Some of these ordinances grant the Commission specific powers of administration and enforcement. The citizens of Oakland have also entrusted the Commission with the authority to set the salaries for the Oakland City Council and to adjust those salaries according to the Consumer Price Index and up to five percent annually.

In 1997, the City Council adopted Chapter 2.24 of the Oakland Municipal Code, enumerating the functions and duties of the Public Ethics Commission. Generally, this ordinance reiterates the Commission's duty to oversee compliance with the above laws, and it articulates additional duties related to those laws, including the following:

- Review policies and programs relating to elections and campaigns in Oakland and report to the City Council on the impact of these policies.
- Recommend to City Council amendments to the above laws and submit a formal report to the City Council every two years concerning the effectiveness of these laws.
- Provide the City Council with an annual assessment of the Commission's staffing and budgetary needs.

- Recommend to City Council the imposition of fees to administer these laws.
- Recommend to City Council additional penalty provisions for violation of campaign financing, conflict of interest, lobbyist registration, and public ethics laws.
- Issue oral advice and written opinions regarding a person's duty to follow campaign financing, conflict of interest, lobbying, and public ethics laws.
- Create forms for reports, statements, notices and other documents related to these laws.
- Develop informational and training programs on each of the laws, including holding seminars for new officers and employees, candidates for elective office, lobbyists, and government officials regarding city, state, and federal laws.
- Prepare and distribute manuals for city officers, employees, and board and commission members to include summaries of ethics laws and reporting requirements, bookkeeping and records retention methods, instructions for completing forms, questions and answers for common situations, and information on where to go for help.

The Commission also is authorized to conduct investigations, audits and public hearings, issue subpoenas, and impose fines and penalties to assist with its compliance responsibilities.

Commission Members

The Commission consists of seven Oakland residents who volunteer their time to participate on the Commission. Three members are appointed by the Mayor and confirmed by the City Council. Four members are recruited and selected by the Commission itself. Each Commissioner may serve no more than one consecutive three-year term.

During the tenure and for one year thereafter, no member of the Commission may:

- Be employed by the City or have any direct and substantial financial interest in any work or business or official action by the City;
- Seek election to any other public office; participate in, or contribute to, an Oakland municipal campaign; or
- Endorse, support, oppose or work on behalf of any candidate or measure in an Oakland election.¹

The Commission meets on the first Monday of every month at 6:30 p.m. in City Hall, and meetings are open to the public and broadcast locally by KTOP, Oakland's cable television station.

Current Staffing and Budget

At the beginning of 2011, the Commission was staffed by an Executive Director and an Administrative Assistant, with a total budget of \$265,750 for FY 2010-2011. In June, 2011, Executive Director Dan Purnell retired after serving with the Commission for over ten years.

¹ Oakland Municipal Code §2.24.050.

Executive Assistant Tamika Thomas also resigned after serving since 2007 and is now working in the City Clerk's Office.

As part of major budget reductions across City government in 2011, the Commission's budget for FY 2011-12 was reduced to 152,724, cutting one FTE (full-time employee) and leaving one FTE allocation. Budget amendments in January 2012 provided an increase to the Commission's budget, resulting in a total budget of \$186,336 for FY 2011-12, but still only one FTE position. The Commission's budget for FY 2012-13 will be the same, \$186,336, absent any changes made during the mid-cycle budget review in June 2012.

The Commission currently is staffed by Executive Director Whitney Barazoto who started with the Commission in April 2012. Given the number of responsibilities placed on the Commission and its staff, the Commission cannot meet its full mandate with only one FTE. As a result, the Commission will need to make difficult decisions and prioritize among its responsibilities in order to accomplish the duties it deems most important and valuable to the City. Concurrently, Commission staff is working to streamline assignments, partner with other City programs, assess staffing needs, and recruit part-time workers. The Commission will communicate its projected staffing and budgetary needs to the City Council in advance of the 2013-15 budget cycle, as required by City ordinance.

City ordinance also specifies the Office of the City Attorney as the Commission's legal advisor to provide the Commission with legal assistance.

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)

Accomplishments in 2011

Complaint Administration

Complaints are administered pursuant to the Commission's General Complaint Procedures. Each formal complaint is reviewed by the Executive Director who conducts a preliminary investigation and produces a staff report. Each report is considered during an open public meeting at which time the Commission decides whether to dismiss the complaint, direct further investigation, explore settlement with the respondent, or proceed to a formal administrative hearing on the merits of the complaint.

In 2011, the Commission received a total of 5 complaints. This compares to 30 complaints in 2010, 16 in 2009, 20 in 2008, nine in 2007, and 23 complaints in 2006.

During 2011, the Commission closed 11 cases that were initiated in 2010 or earlier. Of these 11 cases, six alleged violations of the Oakland Sunshine Ordinance, two alleged violations of the Limited Public Financing Act, two alleged violations of the Oakland Campaign Reform Act, and one alleged a violation of the Conflict of Interest Code and California Political Reform Act (Form 700 filing requirement).

City Council Member Compensation

In March, 2004, Oakland voters adopted Measure P by a vote margin of 70 to 30 percent. Oakland City Charter Section 202(c) now authorizes the Public Ethics Commission to annually adjust City Council salaries "by the increase in the consumer price index over the preceding year" at a minimum, or up to a maximum total of five percent.

Pursuant to the requirement, the Commission on June 6, 2011, adopted a resolution to approve a 2.8 percent salary increase for the Office of City Councilmember, putting the total salary at \$76,172.62 effective as of the first pay period of FY 2011-12. The increase is required by law as it reflects the change in the CPI for the San Francisco Bay Area for the period April 2010 through April 2011.

Pursuant to Measure P, the Commission will undertake its required review of City Council salaries again in June 2012.

Lobbyist Registration

In June, 2002, the City Council adopted the "Oakland Lobbyist Registration Act." This Act requires all professional lobbyists to register with the City before attempting to influence a local governmental action on behalf of another person. It requires paid, professional lobbyists to file initial and quarterly reports with the City Clerk. The reports require disclosure of a lobbyist's clients or employer, as well as the subject of any lobbying. The Commission is responsible for administering and enforcing the Act.

As of May 2011, 41 lobbyists had registered with the City representing a total of 46 registered clients. Commission staff maintains on the Commission's website a list of registered lobbyists and their clients. Quarterly reports are also posted on-line to disclose: a) the lobbyists' clients; b) the subject of governmental action lobbied upon; c) who was lobbied; 4) the client's position

on the item being lobbied; 5) campaign contributions solicited by a lobbyist; and 6) employment opportunities arranged by a lobbyist.

In conjunction with its duties under the Act, the Commission publishes and widely distributes "A Guide to Lobbyist Registration" to inform the regulated community about its duties under the Act.

Oakland Campaign Reform Act (OCRA)

The Oakland Campaign Reform Act (OCRA) regulates campaign contributions and expenditures in connection with local elections. It establishes voluntary expenditure ceilings for campaigns for local office and regulates the amount persons may contribute to a local candidate. Contribution amounts depend on whether the candidate has accepted the voluntary expenditure ceilings. OCRA also regulates campaign contributions by contractors who are in the process of negotiating certain contracts with the City.

The Commission continues to publish and distribute its "Guide to the Oakland Campaign Reform Act," a section-by-section analysis for political candidates, treasurers and other interested parties. This Guide is now part of the package of materials that candidates receive when they take out nomination papers to run for Oakland office. Commission staff devotes considerable time to responding to inquiries from candidates, contributors and the public regarding the ordinance.

In recent years, the Commission's Lobbyist Registration and Campaign Finance Committee held a series of special meetings to review a section-by-section analysis of OCRA and developed a comprehensive set of amendments for amending OCRA. Also, in response to a request from the City Council, the Commission in 2011 completed a review and revision of OCRA Section 3.12.220 (How And When Voluntary Expenditure Ceilings Are Lifted).

Oakland Sunshine Ordinance

The Oakland Sunshine Ordinance is a local ordinance that was enacted in 1997 to supplement the California Brown Act and Public Records Act. The goal of the Sunshine Ordinance is to provide greater access to Oakland meetings and records.

In 2011, the Commission conducted a series of public hearings devoted to the subject of improving public access to City records. During the process, the Commission received input from members of the public on problems encountered while attempting to access City records, from City employees in how they administer public records requests, and from other local agencies regarding their local public records laws and programs. The result of these hearing will be a set of recommendations from the Commission to amend the Sunshine Ordinance and to assist administrative compliance with the Public Records Act.

Education and Outreach

In 2011, Commission staff conducted City-wide ethics trainings for Oakland employees who are required to file FPPC Form 700s (Statements Of Economic Interests). The training, conducted by Commission staff and representatives from the Office of the City Attorney and City Auditor, reviews state and local laws in the areas of:

- Personal Gain (bribery, theft, conflicts of interest, self-dealing in contracts);
- Perks Of Office (use of public resources, loans, gifts, honoraria);
- Transparency (open meetings, public records, whistleblower protections, the City Auditor's "Fraud, Waste and Abuse" program); and
- Fair Process (bias, incompatible offices and employment, nepotism).

In addition, the training includes a segment on "ethical decision-making" for public employees.

The Commission's webpage, accessed through "oaklandnet.com", offers links to all legislation in the Commission's jurisdiction, past and current agendas with related materials, Commission publications, public matching funds forms, lobbyist registration forms, information on the Commissioners, and notification of recruitment for vacancies when they occur.

The Commission maintains and regularly distributes its publications of:

- How To Notice A Public Meeting And Respond To Requests For Public Information
- Handling Public Records Requests
- A Guide To Lobbyist Registration
- How To Apply For Public Financing
- A Guide To Oakland's Campaign Reform Act
- A Handbook For Members Of Oakland Boards And Commissions

Current Commissioners Who Served in 2011

Richard Unger (Chair)

Commission appointee 1/22/10 – 1/21/13

Richard Unger has lived in the Bay Area since 1966. He has been a home owner and with his wife has raised a family in Oakland since 1978. His three grandchildren now attend Oakland schools. Dr. Unger practices psychiatry with an emphasis on psychotherapy and consultation to non-medical practitioners and their patients about psychopharmacological treatment. He has worked in both public and private sectors and is a founding member of Bay Psychiatric Associates, a group practice in the East Bay providing inpatient psychiatric care. He is a member of the Board of Directors and has been the CFO of that organization for 14 years. He has been a consultant for psychiatric patient advocacy organizations.

Dr. Unger has an undergraduate degree from the University of Pennsylvania, a Master's degree in Bacteriology from the University of Wisconsin, a Ph.D. in Molecular Biology from the University of California at Berkeley, and an M.D. at the University of California, San Francisco. Additional interests include medical and professional ethics as well as travel, fishing, river and fishery conservation and a wide range of outdoor activities.

Aspen Baker

Mayoral appointee 1/22/11 – 1/21/14

Aspen Baker is the founder and executive director of Exhale, an award-winning, national nonprofit organization that has been operating out of downtown Oakland since its founding in 2000. An Oakland resident for over ten years, Ms. Baker was named a "Local Hero" by San Francisco's KQED for Women's History Month in 2009 and "Young Executive Director of the Year" by the Bay Area's Young Non-Profit Professional Network in 2005. She is a 2011 Emerge California Fellow, a former member of the Women's Health Leadership Network of the Center for American Progress, and a 2004 Fellow with the Women's Policy Institute of the Women's Foundation of California. Ms. Baker has been featured on T.V., radio, blogs and in print media, including *CNN Headline News*, *Fox National News*, *Ladies Home Journal*, *New York Times Magazine*, *National Public Radio*, *Oakland Local*, *Oakland Magazine*, and the *Oakland Tribune*, among others. She brings her organizing, communications and social media experience to her service on the Commission.

Born in a trailer on the beach in Southern California, Ms. Baker holds a degree in Peace and Conflict Studies from the University of California, Berkeley, and is a former bartender and a one-time Alaska resident who can land a

bush plane on a glacier. Now, Ms. Baker enjoys spending her time working with fellow citizens on creating a more fair, transparent, open and effective government for the City of Oakland.

Amy Dunning

Mayoral appointee 1/22/10 – 1/21/13

Amy Dunning serves as the Regional Director/Chief Administrative Judge of the Western Regional Office of the U.S. Merit Systems Protection Board. From 1998-2001 Ms. Dunning served as Counsel to the Commander, U.S. Naval Forces Europe, in London, United Kingdom. As the senior Navy Office of the General Counsel attorney in Europe, she provided legal services throughout Europe as well as in Bahrain. Prior to working in London, Ms. Dunning served on the legal staff of the Deputy Assistant Secretary of the Navy, as Counsel to the Director, Human Resources Operations Center. From 1993-1994, Ms. Dunning worked in the Justice Management Division of the Department of Justice representing management in cases brought by Department of Justice employees and their unions. Ms. Dunning served 8 years on active duty as a Judge Advocate with the U.S. Marine Corps, including time spent mobilized for Operation Enduring Freedom. She retired as a Colonel from the U.S. Marine Corps Reserve in January 2009.

Ms. Dunning is a native of Milwaukee, Wisconsin. She has an undergraduate degree in Political Science from the University of Missouri, a J.D. from Southern Illinois University, and an L.L.M in Labor Law from Georgetown University. Ms. Dunning is admitted to practice law in California, Illinois, and the District of Columbia. She resides in Oakland, California, where she tutors public high school students in writing and enjoys running the trails of the East Bay Regional Park District.

Llyod Farnham

Commission appointee 1/22/11 – 1/21/14

Lloyd Farnham has served as an attorney with the Enforcement Division of the U.S. Securities and Exchange Commission since 2003. During his time with the SEC, Mr. Farnham has investigated and litigated cases involving securities fraud, insider trading, and violations of corporate disclosure rules.

Mr. Farnham has an undergraduate degree from Occidental College, and a J.D. from the University of California, Berkeley, School of Law. Prior to joining the staff of the SEC, Mr. Farnham clerked for a federal district judge and spent four years practicing law at a San Francisco law firm. He and his family have lived in Oakland since 2004.

Previous Commissioners Who Served in 2011

Ai Mori

Mayoral appointee 1/22/09 – 1/21/12

Ai Mori is a staff attorney at the Court of Appeal in San Francisco. Prior to joining the Court of Appeal, she practiced employment litigation and family law and was certified by the State Bar of California as a specialist in family law. She serves on the Board of Directors of Asian Women's Shelter, a domestic violence shelter in San Francisco, and is a member of the Civil Rights Committee of the Asian American Bar Association of the Greater Bay Area. She has also volunteered as a judge at the McCullum Youth Court in Oakland.

Ms. Mori earned her undergraduate degree from the University of California, Berkeley and her J.D. from the University of California, Hastings College of the Law.

Alex Paul

Commission appointee 1/22/09 – 1/21/12

Alex Paul is an attorney and has worked for several Bay Area companies over the past 10 years. Mr. Paul has created Ethics courses that have been utilized by thousands of workers nationwide. At law school, Mr. Paul was awarded by the Dean of the law school for the highest grade given in an Ethics class. As an attorney and one that works for a public company, he is also involved in investigating Code of Conduct violations and understands the importance of compliance training and education. Mr. Paul has lived in Oakland for 7 years.

Mr. Paul holds a J.D. from the University of Notre Dame and a M.A. in business administration from the University of Illinois at Springfield.

Chris Young

Commission appointee 1/22/11 – 1/21/14

Before joining Kecker and Van Nest, Chris Young served in the Obama Administration—first in the White House under Special Counsel to the President and later in the U.S. Department of Justice as Associate Director of Intergovernmental Affairs. Prior to working in the Administration, Chris was Senior Advisor and Counsel to Mayor Kevin Johnson of Sacramento, California. Chris joined the Johnson Administration after serving as Northern California Deputy Finance Director for Barack Obama's Presidential Campaign. Chris began his law work as a litigation associate at Morrison & Foerster LLP. He spent most of his first year as one of the lead trial attorneys in *Valenzuela v. O'Connell*, a class action lawsuit challenging the constitutional integrity of the California High School Exit Exam.

During law school, Mr. Young co-founded Law Student Outreach, a traveling clinic that provided legal referral services to underserved East Bay Area communities. He served on the school's Admissions Committee and worked as a research assistant to Professors Ian Haney Lopez and Norman Spaulding. Mr. Young also served as a judicial extern to Judge Marsha Berzon on the U.S. Circuit Court of Appeals for the Ninth Circuit and Justice Joyce Kennard of the California Supreme Court. Before law school, he was a California State Senate Fellow, serving as a legislative aid to a senator and the Senate Education Committee.

Mr. Young holds a J.D. from the University of California, Berkeley School of Law, and an undergraduate degree from San Diego State University, where he earned a philosophy major and psychology minor and graduated *magna cum laude*, Phi Beta Kappa, and as valedictorian of the School of Philosophy.

Public Ethics Commission

At a Glance

Commission Meetings

The Commission meets regularly on the first Monday of every month at 6:30 p.m. and may hold additional meetings as necessary throughout the year. Meetings generally are held in Hearing Room 1 of City Hall.

Commission Office

1 Frank H. Ogawa Plaza (City Hall), 11th Floor
Oakland, CA 94612
phone: (510) 238-3593
fax: (510) 238-3315
email: ethicscommission@oaklandnet.com

Current Commissioners*

Richard Unger (Chair)
Aspen Baker
Amy Dunning
Lloyd Farnham
Monique Rivera

*The Commission currently has two vacancies.

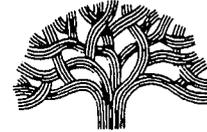
Commission Staff

Whitney Barazoto, Executive Director

Subscribe for Information

To receive meeting notices and other Commission announcements, please email the Commission at ethicscommission@oaklandnet.com or subscribe directly on the Commission's webpage accessible through the City of Oakland's website. Go to www.oaklandnet.com, click on the "Government" tab.

CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND,
CALIFORNIA 94612

Office of the City Attorney
Barbara Parker
City Attorney

March 22, 2012

(510) 238-3601
FAX: (510) 238-6500
TTY/TDD: (510) 238-3254

TO: All City staff, City Councilmembers, Mayor Quan, City Administrator Santana and City Auditor Ruby

FROM: City Attorney Barbara Parker

Re: City Council Non-Interference in Administrative Affairs

City of Oakland staff and City Councilmembers should be aware of the following prohibitions of the City Charter Section 218 (Non-Interference in Administrative Affairs). *Violation of these provisions of this section by a member of the Council is a criminal misdemeanor. A conviction would trigger immediate forfeiture of office.*

- A City Councilmember may only contact City administrative staff only to make inquiries. All other communications about the administration of the City must only be through the City Administrator or Mayor.
- A City Councilmember shall not give orders to any administrative employee, either publicly or privately. A City administrative staff person shall not carry out the orders of a City Councilmember. Instead, the staff person should consult and follow the direction of the City Administrator or department head.
- A City Councilmember shall not attempt to coerce or influence the City Administrator or any administrative employee in respect to any contract, purchase of supplies or any other administrative action. A City staff person should not be influenced in respect to any contract, purchase of supplies or any other administrative action by a Councilmember.
- A City Councilmember may not in any manner direct or request the appointment to or removal from office of any person by the City Administrator, City Administrator subordinates or any other such officers.
- A City Councilmember may not in any manner take part in the appointment or removal of any administrative employee.

If you have any questions about the above or believe a violation has occurred you should contact the City Administrator's Office. Until the position of the Executive Director to the Public

March 22, 2012

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Ethics Commission is filled, please contact Deputy City Administrator Arturo Sanchez at 238-7542 or at asanchez@oaklandnet.com.

Or, you can anonymously call the City Auditor's Fraud, Waste, and Abuse Hotline: (888) 329-6390.

For more information about the charter power of City Councilmembers re: contracting, use of public funds and other issues, please see the series of legal opinions issued to the City Council in 2006 and posted on the City Attorney's Web site since that time at:

<http://www.oaklandcityattorney.org/Ops-Reps/Opinions.html>

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Barbara J. Parker".

Barbara Parker
Oakland City Attorney

By:

Mark T. Morodomi
Supervising Deputy City Attorney