

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Monday, July 2, 2012
Sgt. Mark Dunakin, Hearing Room 1
6:30 p.m.



Commissioners: Richard Unger (Chair), Amy Dunning (Vice-Chair), Aspen Baker, Lloyd Farnham, Roberta Johnson, Benjamin Kimberley, 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 Commissioners Johnson and Kimberley

3. Open Forum

CONSENT ITEMS¹

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

GUEST PRESENTATION

5. **Public Access to Information.** Nicole Neditch, Office of the City Administrator, will present information to the Commission about some of the current efforts by the City Administration to provide greater public access to government data, as well as plans for future projects intended to improve technology and operations to facilitate public access to City information.

ACTION ITEMS

6. **Candidate Information Packets.** Commissioners will review a proposed educational packet for candidates that includes information about various state and local laws related to campaigning for public office, including campaign reporting requirements, rules for receiving and reporting gifts, conflicts of interest disclosure, and additional rules imposed on candidates and elected officials. (Attachment 3)
7. **Complaint/Enforcement Program.** Staff presents a plan for prioritizing and completing pending complaints and investigations in order to expedite processing of the

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

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Commission's backlog of cases. Commissioners may discuss the complaint process in general and may discuss any of the complaints listed in the attached spreadsheet (Attachment 4). Staff recommends dismissing the following cases that are outside of the Commission's jurisdiction:

- 12-05 (Hudson)
- 12-02 (Piper)
- 12-01 (Anonymous)
- 11-05 (Vigilante)
- 11-04 (Shawl)
- 11-02 (Chaves)

DISCUSSION ITEMS

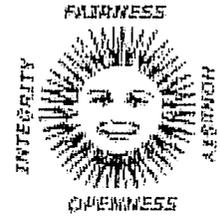
8. **Zero Waste Contract Procurement Process Integrity.** Staff provides information about the Zero Waste Contract Procurement Process developed by the Oakland Department of Public Works to ensure integrity and avoid conflicts of interest in the contracting procurement process. (Attachment 5)
9. **Commission Priorities.** Staff proposes to open a discussion of Commission priorities to occur at the next scheduled meeting. Staff includes a memorandum to provide an overview of the suggested process for the discussion along with information to provide context and help guide the discussion. (Attachment 6)
10. **Internship Program.** Staff is developing materials with Commissioner Johnson to create internship opportunities with the Commission. Staff invites suggestions for intern projects, such as website development, policy impact evaluation or research, educational material updates, and creation of Commission publications.

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.

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.

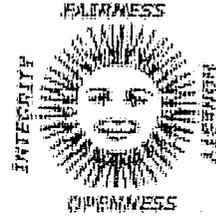
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Should you have questions or concerns regarding this agenda, or wish to review any agenda-related materials, please contact the Public Ethics Commission at (510) 238-3593 or visit our webpage at www.oaklandnet.com/pec.

Richard Unger for Richard Unger, Chairman 6/20/12
Approved for Distribution Date

MINUTES OF MEETING - DRAFT
PUBLIC ETHICS COMMISSION
REGULAR MEETING
One Frank Ogawa Plaza (City Hall)
Monday, March 5, 2012
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: Patrick J. Caceres, Interim Executive Director and Alix Rosenthal, Deputy City Attorney

MINUTES OF MEETING

A. Roll Call and Determination of Quorum

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

Members present: Unger, Baker, Farnham, Dunning, and Young.

Staff present: Patrick J. Caceres

Staff excused: Alix Rosenthal

B. Staff and Commission Announcements

Mr. Caceres explained that the attachments for agenda items F and G were submitted after the ten day deadline for notices, so these items could not be considered at the meeting.

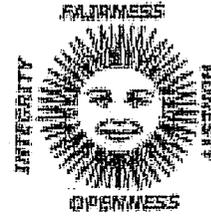
Chairman Unger reviewed the status of the Commission during the time it has been dark and said that the Commission hopes to have a new Executive Director appointed soon.

Commissioner Baker thanked the Chairman for his dedication. She also noted that Mr. Sanjiv Handa passed away during the time the Commission had not been meeting, and 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

There was one speaker, Ralph Kanz.

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D. Status of Current Staffing for the Commission

Mr. Caceres provided an update on the City Administrator's process of filling the Executive Director position, which he said should be filled within the next few weeks. Meanwhile, he will be serving as interim Executive Director until one is hired.

E. New Commissioner Appointees Discussion

Mr. Caceres provided information about the process for appointing new Commissioners, and the Commission discussed the mechanics of advertising and filling the Commission's vacancy. The Commission discussed the need to move quickly while also following the necessary posting requirements. The Commission moved, seconded, and adopted a motion to post the vacancy announcement and application for at least 30 days, or the required time period, whichever is longer.

Commissioners Farnham, Dunning and Chairman Unger volunteered to serve on the subcommittee to conduct interviews of Commissioner applicants and make a recommendation to the full Commission. The Commission moved, seconded, and approved the creation of the subcommittee.

There was one speaker, Ralph Kanz.

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

The Commission discussed the list of complaints in the agenda and noted that it appeared incomplete. The Commission directed staff to try and complete the list and provide an update at the next Commission meeting.

There was one speaker, Ralph Kanz.

G. New Complaint Discussion

The Commission did not discuss this item.

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H. Future Education Efforts on Limited Public Financing

Mr. Caceres provided information about the Limited Public Financing program. The Commission directed staff to review the Limited Public Financing Act to ensure Commission compliance and to discuss at the next meeting whether the Commission has the authority to suspend the program, and if so, whether it should do so.

There was one speaker, Ralph Kanz.

I. Annual Report Discussion

The Commission directed staff to draft an annual report to summarize the Commission's work in 2011.

J. Form 700

Mr. Caceres provided information to the Commission about the requirement to file a Form 700 by April 1, 2012.

The Commission directed staff to include the June 6th, 2011, meeting minutes on the agenda for the next meeting. The Chairman announced that the next Commission meeting will be the first Monday of next month at 6:30 p.m.

The meeting adjourned at 8:00 p.m.

MINUTES OF MEETING - DRAFT
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Monday, June 4, 2012
Sgt. Mark Dunakin, Hearing Room 1
6:30 p.m.



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

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

MINUTES OF MEETING

1. Roll Call and Determination of Quorum

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

Members present: Unger, Baker, Farnham, Dunning, and Rivera.

Staff present: Whitney Barazoto and Pelayo Llammas, Deputy City Attorney

Staff excused: Kathleen Salem-Boyd

2. Staff and Commission Announcements

Executive Director Whitney Barazoto welcomed Commissioner Monique Rivera, a new appointee by Mayor Quan.

Chairman Unger welcomed the new executive director, who started with the Commission on April 23, 2012.

3. Open Forum

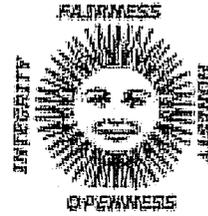
There was one speaker, Ralph Kanz.

CONSENT ITEMS

4. Approval of Commission Draft Minutes

Commissioner Baker requested removal of the March 5, 2012, meeting minutes from the consent calendar and asked that they be rewritten more consistent with the format of the prior meeting minutes. The Commission directed staff to redraft the minutes for the March meeting.

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The Commission moved, seconded, and unanimously approved the June 6, 2011, meeting minutes.

ACTION ITEMS

5. Elections of Chair and Vice-Chair of the Commission

Commissioner Farnham nominated Chairman Unger to serve as Chairman of the Commission. Commissioner Baker seconded. The Commission approved the nomination and appointed Chairman Unger as Chair for the remainder of 2012.

Chairman Unger nominated Commissioner Dunning to serve as Vice-Chair of the Commission. Commissioner Baker seconded. The Commission approved the nomination and appointed Commissioner Dunning as Vice-Chair for the remainder of 2012.

6. Presentation and Appointment of New Commission Members

Chairman Unger explained the process in which two nominees were selected by a subcommittee of Commissioners to present to the full Commission for appointment to the Commission. The two nominees, Roberta Ann Johnson and Benjamin Kimberley, each introduced themselves to the Commission and spoke for a few minutes.

The Commission moved, seconded, and unanimously approved the appointment of Roberta Ann Johnson to the Commission for the 2011-2014 term left vacant by Commissioner Young's resignation.

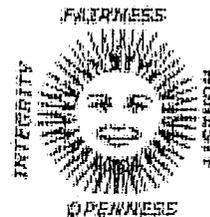
The Commission moved, seconded, and unanimously approved the appointment of Benjamin Kimberley to the Commission for the 2012-2015 term.

There was one speaker, Ralph Kanz.

7. Meeting Schedule and Related Amendment to Commission By-Laws

Ms. Barazoto presented a proposed schedule of regular meetings for the remainder of 2012, suggesting the Commission move its annual recess from

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August to October when she will be on maternity leave from the Commission. She explained that the change will require an amendment to the Commission's By-Laws, which specifically indicate August as the month of recess. The By-Law amendment will give the Commission the discretion to choose which month it will recess each year. Generally, the Commission sets the calendar before the first of the year and announces the schedule for the entire year, including the month it plans to recess.

The Commission moved, seconded, and unanimously approved changes to the Commission's By-Laws to allow the Commission flexibility to choose which month it will recess each year.

The Commission moved, seconded, and unanimously approved staff's proposed meeting schedule for the remainder of 2012.

There was one speaker, Ralph Kanz.

8. Complaint/Enforcement Program

Ms. Barazoto explained that the list of complaints included in the agenda packet is a complete list of complaints as of May 25, 2012. She requested input from the Commission regarding the complaint process in general, and also recommended dismissing five cases that were pending dismissal since the Commission's meeting in May 2011. Because the Commission had no staff in its offices for much of the time since June 2011, the Commission directed staff to send letters to each of the complainants in the five cases notifying them of the Commission's dismissal. The Commission moved, seconded, and approved dismissal of the following cases: 03-02, 07-03, 08-04, 08-13, and 08-18.

The Commission directed staff to provide suggestions at the next meeting for how to proceed with the backlog of complaints.

9. Annual City Council Member Salary Adjustment

The Commission discussed increasing City Council member salaries by the increase in the Consumer Price Index as required by City law. The Commission also discussed the issue of whether the Commission should consider at a future meeting a discussion of alternatives to the current salary-setting rules and

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authority of the Commission. The Commission moved, seconded, and approved the required increase of 2.1%, based on the increase in the Consumer Price Index for the greater San Francisco Bay area.

10. Limited Public Financing Act

Ms. Barazoto provided information about the Limited Public Financing account and the Commission's authority to determine whether to issue funds this year. No action was taken.

11. Annual Report

Ms. Barazoto presented a draft annual report of the Commission's work in 2011. The Commission directed staff to include mention of an initiative in 2011 to increase compliance with Form 700 filing requirements. With that amendment, the Commission moved, seconded, and approved the Public Ethics Commission 2011 Annual Report.

There was one speaker, Barbara Newcombe.

DISCUSSION ITEMS

12. Commission Budget

Ms. Barazoto gave an overview of the Commission's budget, staffing, and assistance provided by the City Administrator's office.

13. City Council Non-Interference in Administrative Affairs

Ms. Barazoto provided the Commission with information about the City Attorney's memorandum regarding City Council member involvement in administrative operations. The Commission expressed interest in learning more about the issue and the process.

The Commission directed staff to invite the City Auditor to a future meeting to present the Auditor's Ethical Climate Survey for 2011.

The meeting adjourned at 8:54 p.m.

CITY OF OAKLAND
Public Ethics Commission

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



Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
DATE: June 20, 2012
RE: Campaign-Related Information Packet for Local Candidates

In August, 2012, the City Clerk will certify the nominations of candidates for local office, which triggers, among other things, the start of the Limited Public Financing program for the November 6, 2012, General Election. In preparation for the certification, staff revised the Limited Public Financing program handbook to be distributed to candidates upon certification. In addition, staff prepared a packet that includes additional information for candidates to provide them with background about state and local laws related to running for local office. Staff proposes including the handbook as part of the larger packet of information, all of which will help local candidates with the information needed to comply with state and local campaign-related laws.

The information contained in the packet comes from a variety of sources and mostly includes fact sheets and written materials prepared by the state Fair Political Practices Commission as well as printed versions of state and local laws from online sources. While this packet is not an ideal format of conveying this information, it will provide candidates with more information than they previously received on these laws. In the future, when Commission staff resources permit, staff suggests the Commission compile this information in a more condensed and user-friendly format.

Staff requests Commission approval of the attached information packet, including the Limited Public Financing handbook, so that it can be distributed in August during the nominations period.

Campaign-Related Information for Local Candidates Running for Office in City of Oakland

Because state and local laws impose many requirements on candidates for local office, this packet aims to provide information to candidates to assist in complying with these laws.

Campaign Activities

1. **State Campaign Reporting Rules** – download and print the Campaign Disclosure Manual 2 (for local candidates) from the Fair Political Practices Commission website or access the manual directly at the following link:
<http://www.fppc.ca.gov/manuals/manual2local.pdf>.
2. **Oakland Campaign Reform Act (local)** – download and print the Guide to the Oakland Campaign Reform Act from the Oakland Public Ethics Commission website at www.oaklandnet.com/pec, or call (510) 238-3593 to receive a copy by mail.
3. **Limited Public Financing (local)** – candidates may apply for reimbursement of campaign expenses with public funds, to begin after candidate nominations are certified by the City Clerk: (Attached)
4. **Additional Advertising Restrictions** (see also State Campaign Disclosure Manual 2, mentioned above)
 - a. **Political Advertising Disclaimers** (Attached)
 - b. **Posting of Signs Regulations (local)** (Attached)
 - c. **Oakland False Endorsement in Campaign Literature (local)** (Attached)
5. **Restrictions on Source of Funds Used for Campaign Purposes**
 - a. **Prohibition on the Use of Public Resources for Campaign Purposes** (Attached)
 - b. **New Rules for Campaign Related Communications by a Governmental Agency** (Attached)

Gift Rules

1. **Limitations and Restrictions on Gifts, Honoraria, Travel and Loans for Local Officials** (Attached)
2. **Changes to Gift Rules, effective January 1, 2012** (Attached)

Conflicts of Interest

1. **Form 700 Statement of Economic Interests** (Attached)
2. **Conflict of Interest in Decision-making – Can I Vote?** (Attached)

Additional Restrictions

1. **Revolving Door and Post-Employment Restrictions** (Attached)
2. **Campaign Contributions May Cause Conflicts for Appointees and Commissioners** (usually applies when the official serves in a non-elected position) (Attached)
3. **Holding Two Positions** (Attached)

Please note that the Oakland Campaign Reform Act imposes restrictions on a variety of campaign activities including a rule that prohibits a person who contracts or proposes to contract with the City from making contributions to local candidates and elected City officials during and immediately following the contract bidding negotiation process. (See section 3.12.140 of the Oakland Campaign Reform Act).

Helpful Contacts

More information about State requirements for local candidates for office, and copies of many of the attached documents, can be found online at the California Fair Political Practices Commission website at www.fppc.ca.gov. For more information about filing campaign forms and other required documents, contact the Oakland City Clerk's office at (510) 238-3611.

For more information about the Limited Public Financing program, local campaign laws, and conflict-of-interest rules, please visit the City of Oakland Public Ethics Commission website at www.oaklandnet.com/pec or contact the Commission's offices at:

Public Ethics Commission

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

CITY OF OAKLAND
Public Ethics Commission

Richard Unger, Chair
 Amy Dunning, Vice-Chair
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 Roberta Ann Johnson
 Benjamin Kimberley
 Monique Rivera



Whitney Barazoto, Executive Director

TO: Public Ethics Commission
 FROM: Whitney Barazoto, Executive Director
 DATE: June 20, 2012
 RE: Complaint/Enforcement Program Priorities

Attached is a list of pending complaints as of June 20, 2012. Staff conducted a preliminary review of every complaint in order to assess and prioritize among them. Staff recommends dismissing the following cases that are outside of the Commission's jurisdiction:

- 12-05 (Hudson)
- 12-02 (Piper)
- 12-01 (Anonymous)
- 11-05 (Vigilante)
- 11-04 (Shawl)
- 11-02 (Chaves)

For the 17 remaining cases, each was assigned a score derived from the following two evaluative criteria: 1) a level of priority (low, medium, or high priority), based on factors such as public interest, complainant interest, timing of complaint, statute of limitations, and impact of Commission decision, along with 2) an estimation of staff time required to complete an investigation (small, medium, or large amount of time). A point value score was allocated to each of these two criteria – priority level and staff time needed – so that higher priority cases received a lower point value, as did cases that would take a small amount of staff time. Thus, a high priority case that would take a small amount of staff time would receive a score of 2, and be placed at the top of the priority list. Each case was given a score of 2-6 based on the combined level of priority and amount of staff time needed to close the case. Under this system, level two cases would be processed first, then level three, and so on.

Three of the seventeen cases could be dismissed for reasons identified in the spreadsheet, leaving 14 cases on the list for staff investigation. Staff proposes moving ahead to prepare dismissals of these three cases, numbered 10-30, 09-15, and 09-12, at the next Commission meeting for reasons provided in the spreadsheet.

Staff further proposes to proceed on the remaining cases based on the priority scoring system described above. This would entail pursuing cases in order of priority numerical score, beginning with 2 and then 3, 4, and 5.

Public Ethics Commission Pending Complaints

Date Rec'd	Case #	Complainant	Respondents	Date of Alleged Violation	Alleged Violation	Status	Priority	Staff Recommends
6/19/12	12-06	Ralph Kanz	Public Ethics Commission	5/16/12	Alleges respondent Commission's subcommittee meeting of 3 members, should have been noticed under Sunshine and Brown Acts because at the time, the Commission had only five members.	Complaint received	H/S 2	Investigate and determine appropriate process
5/11/12	12-05	Victoria Hudson	Jean Quan	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		Dismiss – not in PEC jurisdiction
4/26/12	12-04	City Auditor/ Anonymous	City Council Member Ignacio De La Fuente		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	H/L 4	Investigate
4/4/12	12-03	City Auditor/ Anonymous	Downtown Oakland Association and Lake Merritt/Uptown District Assoc.	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	M/M 4	Investigate
3/8/12	12-02	Anonymous	Susan Piper	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		Dismiss – not in PEC jurisdiction
2/22/12	12-01	Anonymous	City Administration		Complaint questions why the City needs 3 assistant city managers	Complaint received		Dismiss – not in PEC jurisdiction

* Priority code is based on a dual determination: 1) level of priority (High, Medium or Low, based on criteria such as public interest, complainant interest, timing of complaint, statute of limitations, and impact of Commission decision), and 2) amount of staff time likely needed (Small, Medium, or Large amount of time).

10/20/11	11-05	Nicholas Vigilante	Mimi Rohr			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		Dismiss – not in PEC jurisdiction
9/12/11	11-04	Susan Shawl	Planning Commission's Design Review Committee	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		Dismiss – not in PEC jurisdiction
8/23/11	11-03	City Auditor/ Anonymous	City Council Member Ignacio De La Fuente	June 2011		Complaint expresses concerns about the source of concert tickets allegedly in the possession of respondent	Complaint received	H/L 4	Investigate
8/9/11	11-02	Claudia Chaves	Police	5/15/11		Complainant contests-traffic ticket and legal process	Complaint received		Dismiss – 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		Complaint alleges two contractors made impermissible campaign contributions to candidates in the Nov 2010 election (OCRA; §3.12.140)	Staff is investigating	H/L 4	
12-7-10	10-30	Sanjiv Handa	Oakland Parking Division	Ongoing		Oakland Sunshine Ordinance -- Alleged failure to timely produce parking records	Staff is investigating	L/S 4	Could dismiss – no one to receive the records since complainant is deceased
11-1-10	10-28	Ralph Kanz	Ala. Demo. Central Comm.; OakPAC	October 29, 2010		OCRA; §3.12.230 – Alleges 1) failure to include written disclosure required by OCRA and 2) failure to file late contribution and independent expenditure reports	Staff is investigating	H/M 3	
10-13-10	10-26	Ralph Kanz	Jean Quan Floyd Huen	June 30, 2010 and ongoing		OCRA; §3.12.050; 3.12.090 -- Alleges failure to report and include information regarding respondent's loans to own campaign	Staff is investigating	H/M 3	

10-13-10	10-25	Ralph Kanz	Don Perata	June 30, 2010 and ongoing	OCRA; \$3.12.090(A)(D) – Alleges campaign was given extension of credit of over \$1500 for more than 90-days	Staff is investigating	H/M 3	
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 – Alleges respondent campaign exceeded the voluntary expenditure limit during the November 2010 election	Staff is investigating	H/L 4	
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 – Alleges respondent districts held meetings without notice	Staff conducted trainings as settlement	H/S 2	Send to City Atty for review and close case at future meeting
7/2/10	10-16	Gwilym Martin	Joseph Yew, Finance	June 18, 2010	Sunshine Ordinance; production of records – Alleges department failed to provide electronic copy of City's Oracle database	Staff is investigating	H/M 3	
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 – Alleges respondents failed to register as lobbyists	Staff is investigating	H/L 4	
3/3/10	10-05	David Mix	Oakland City Council	3/2/10	Oakland Sunshine Ordinance – Alleges City Council Rules Committee failed to make an "urgency finding" to schedule a decision (per Section 2.20.080)	Staff is directed to explore settlement in lieu of hearing.	M/M 4	
11/17/09	09-15	Anthony Moglia	Jean Quan	Ongoing	Alleges misuse of City resources by respondent by linking an officeholder website to the City website and then linking a campaign website to the officeholder site.	Staff is directed to develop guidelines for use of City's electronic media.	M/L 5	Could dismiss given the renewed focus on access to public records and the time lapse since receipt of the complaint

09/16/09	09-12	Marleen Sacks	Office of the City Attorney (Mark Morodomi)	ongoing	Sunshine Ordinance; Public Records Act – Alleges failure to provide multiple public records upon request	Commission is conducting hearings on public access in lieu of adjudication.	M/M 5	Could dismiss given the renewed focus on access to public records and the time lapse since receipt of the complaint
2/7/09	09-03	John Klein	City Council President Jane Brunner	February 3, 2009	Sunshine Ordinance – Allocation of speaker time – Alleges City Council 15-minute total time limit on Open Forum comments is inconsistent with the Sunshine Ordinance, which authorizes 2 minutes per person	Awaiting report from City Attorney	M/M 4	

DISTRIBUTION DATE: _____



FILED
OFFICE OF THE CITY CLERK
OAKLAND

FEB 16 PM 5:30

CITY OF OAKLAND

MEMORANDUM

TO: HONORABLE MAYOR &
CITY COUNCIL

FROM: Vitaly B. Troyan, P.E.

SUBJECT: Revised Zero Waste Agenda Report

DATE: February 16, 2012

City Administrator

Date

Approval

[Handwritten signature]

2-16-12

INFORMATION

Attached is a revised Council Agenda Report, "Resolution Adopting The Recommended Process And Schedule, And Protocol For Process Integrity, For A Request For Proposals For Zero Waste Service Contracts," showing the amendments made by the Public Works Committee on February 14, 2012. Additions are shown in underline, and deletions are shown in ~~strikeout~~. Amended language is found on pages 1, 5, 6 and 7.

Respectfully submitted,

[Handwritten signature]

Vitaly B. Troyan, P.E.
Director, Public Works Agency

For questions please contact Susan Katchee, Environmental Services Manager, 238-6382.

CITY OF OAKLAND

AGENDA REPORT

REVISED

TO: Office of the City Administrator
ATTN: Deanna J. Santana
FROM: Public Works Agency
DATE: February 21, 2012
RE: Resolution Adopting The Recommended Process And Schedule, And Protocol For Process Integrity, For A Request For Proposals For Zero Waste Service Contracts

SUMMARY

The recommended resolution adopts a process and schedule for competitive procurement through a Request for Proposals (RFP) to establish Zero Waste Service Contracts (Contracts). In addition, the recommended resolution adopts a protocol for process integrity to foster transparency, consistency, and fairness in the solicitation and evaluation of proposals, and to establish a code of conduct for participants in the RFP process. The new Contracts for garbage and organics collection, recycling collection, and landfill disposal would replace existing agreements that expire on June 30, 2015.

On January 17, 2012 the City Council adopted a Zero Waste System Design (System Design) which provides the framework for developing new Contracts. The RFP for these Contracts represents one of the City's largest competitive procurements, with an estimated total value over \$60 million per year for a term of 20-30 years, including contract extension options. With contracts at such high estimated value, it is important to have clear ground and engagement rules to not create any actual or perceived conflict of interest.

Before issuing the RFP the City must establish a process and schedule for the procurement, and a protocol to ensure process integrity. As described in this report, the recommended RFP process involves:

- soliciting proposals for three new Contracts
- conducting a comprehensive evaluation of the proposals
- conducting exclusive negotiations with the respondents who submit the top-ranked proposal or proposals for each Contract
- developing and executing new Contracts

The recommended RFP schedule includes authorization from City Council at several key points including prior to entering into exclusive negotiations on the top-ranked proposals, and prior to executing new Contracts. The recommended Protocol for Process Integrity (Protocol) will

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maintain transparency, ensure consistency and fairness, and set a code of conduct for the participants.

This report recommends that the City Council approve the attached resolution adopting a process and schedule for the RFP, and a Protocol for Process Integrity.

FISCAL IMPACT

There are no direct fiscal impacts associated with the adoption of this recommendation. Staff will return to the City Council with recommendations related to the costs and revenues associated with the Contracts.

BACKGROUND

The City of Oakland's Franchise Agreement for Solid Waste and Yard Waste Collection and Disposal Services (Franchise Agreement) with Waste Management of Alameda County (WMAC), and the Agreement for Residential Recycling Service with California Waste Solutions (CWS) expire on June 30, 2015.

In 2006 the City adopted a Zero Waste Strategic Plan that included developing a new System Design to be used in a RFP process to procure new Contracts. On January 17, 2012 the City Council adopted a System Design which provides the framework for developing new Contracts under a single franchise for citywide garbage and organics collection services, a single franchise for citywide residential recycling, and landfill capacity procured separately from collection and processing services.

Existing Solid Waste and Recycling Services

The Franchise Agreement was approved in 1995 after exclusive negotiations with WMAC, the incumbent garbage franchisee, for an initial term ending December 31, 2010. The 1995 Franchise Agreement has been extended twice. Two years were added in 2005 when the City implemented one-cart residential recycling. In 2011 the term was extended by two-and-one-half years to June 30, 2015 in order to maintain the stability of the existing rate structure for Oakland residents and businesses during the current economic downturn, to maintain stable revenues to the City provided by the Franchise Agreement, and to allow sufficient time to complete System Design and establish new Contracts. Services provided by WMAC under the Franchise Agreement have never been procured competitively, with the exception of residential recycling services that were awarded to WMAC through a competitive RFP procurement in 1993.

The Recycling Agreement with CWS for residential recycling in the northern half of the city was established in 2005 through exclusive negotiations with the incumbent. CWS had previously been awarded residential recycling contracts through a competitive RFP procurement in 1993.

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and 1997. In 2011 the term was extended by two-and-one-half years to June 30, 2015 to align with the extended term of the Franchise Agreement so that both services could be included in the RFP.

KEY ISSUES AND IMPACTS

The RFP to establish new Contracts represents one of the City's largest competitive procurements, with an estimated annual value over \$60 million dollars per year for a term of 20-30 years. Oakland's limited history of competitive procurement for solid waste and recycling services requires the City to exercise particular care in conducting the RFP process. At the same time, establishing new Contracts through a RFP allows the City an unprecedented opportunity to set contract terms, service standards, and performance outcomes.

Staff developed the recommendations in this report based on research of similar competitive procurements in other jurisdictions, input from the City's technical assistance consultant, and discussion of process integrity procedures with the Office of the City Attorney. The recommendations are intended to ensure a clear, fair, transparent, and thorough process for soliciting and evaluating proposals, and establishing new Contracts.

This report will cover:

- Benefits of the RFP Process and New Contracts
- Improvements Under New Contracts
- RFP Process and Schedule
- Protocol for Process Integrity

Benefits of the RFP Process and New Contracts

Contracting for recycling, composting, and solid waste services through a RFP to obtain the best value for services is a well-established strategy of many jurisdictions in the Bay Area and throughout the state. Replacing expiring service agreements with completely new Contracts awarded through a RFP process provides particular benefits for implementing Oakland's Zero Waste System Design, and for improving services and contract management tools.

Awarding new Contracts using a RFP puts the City in a stronger position to set contract terms, service standards, and performance goals. Setting these terms and standards is necessary to implement changes in services and contract structures called for under the new System Design. Having set the terms and standards for new Contracts, the RFP process provides the companies that provide these specialized services with an equitable opportunity to compete for desirable multi-year contracts.

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The expiring WMAC Franchise Agreement was developed in the 1990's through the best available information at the time, and through exclusive negotiations with the incumbent service provider. New Contracts established using a RFP will incorporate the latest contracting terms and standards, and incorporate lessons learned in Oakland and other jurisdictions including stronger contract management tools to enforce high performance standards for the service providers. Setting contract terms up-front will enable the City to address issues of concern, such as bulky collection services for multi-family dwellings to reduce illegal dumping associated with tenant move-outs.

The new Contracts will also incorporate goals developed by StopWaste.Org's Franchise Task Force. The Task Force researched and consolidated experiences and best practices for designing, developing, and administering service agreements. In developing these policy-level goals the Task Force recognized that franchise systems are enormously complex, with many interrelated issues and challenges.

The Task Force recommended that the Goals of an Ideal Franchise System are:

1. Achieve high diversion with minimal contamination and maximum quality of recovered commodities.
2. Provide cost efficient services with stable rates for customers.
3. Minimize risk.
4. Include provisions for ease of contract administration and transparency.
5. Provide adequate and stable financial resources for government and service providers.
6. Provide flexibility and discretion.
7. Promote multiple benefits.
8. Enjoy customer and public support.
9. Protect the public and meet regulatory requirements.

Improvements Under New Contracts

New Contracts would incorporate provisions that address current and future needs, lessons learned from prior service agreements, and the most current technology advancements. The resulting improvements and benefits under new Contracts would include:

- Bulky collection services for multi-family dwellings to reduce illegal dumping associated with tenant move-outs
- Bulky item drop-off "amnesty days" for Oakland residents to reduce illegal dumping
- City-designated collection services to clean up illegal dumping.

- Multi-family dwelling rate structure that provides a minimum mandatory level of service to protect health and safety, while also providing a financial incentive to reduce waste
- Access to recycling services for all businesses, eliminating existing service gaps and enabling businesses to comply with pending state and county recycling mandates
- More recycling and organics container size choices for single family residences
- A new generation of collection vehicles that are more energy efficient, less polluting, and potentially quieter
- Integration of technology advancements for customers, such as SeeClickFix smart phone apps for reporting basic service issues (e.g., missed pick-up, broken cart)
- Comprehensive special events collection services, including recycling and organics services
- Mulch and finished compost from collected organics returned to the City for community benefit
- A turn-key system for street litter container services
- Stronger contract performance enforcement through the addition of administrative assessments for basic contract violations, augmenting established liquidated damages assessments for chronic violations and breach of contract for major violations
- Integration of technology advancements to improve service provider performance, such as on-board wireless communication and global positioning in collection vehicles

RFP Process and Schedule

It is recommended that procurement for Zero Waste Service Contracts be through one RFP that solicits proposals for three contracts, per the framework adopted for the System Design:

1. Garbage and Organics Franchise for citywide collection of garbage, organics, and commercial recycling; organics processing; and transfer and transport to landfill (10-year term, with two 5-year extension options)
2. Residential Recycling Franchise for citywide collection and processing of residential recyclables (10-year term, with two 5-year extension options)
3. Landfill Disposal Contract for landfill capacity (20-year term, with two 5-year extension options)

Respondents to the RFP would be able to submit proposals for, and could be awarded, more than one contract. This submittal arrangement provides the City with the greatest flexibility in awarding new Contracts. Proposals for each contract would be evaluated separately, and the City would accept alternative proposals for multiple contracts. Respondents would be able to

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establish joint venture partnerships for the purpose of submitting a proposal, subject to partnership disclosures and other requirements detailed in the RFP. The RFP would provide potential respondents with comprehensive background information and data, specific requirements for services to be provided, detailed proposal instructions, and submittal requirements. The RFP will include a procurement schedule, proposal evaluation criteria, description of the selection process, and model contracts. More information on these items will be included in a report to City Council in late March.

The RFP process will begin with the City announcing the release of the RFP, and follow the schedule in Table 1 below. It is critical that the RFP process for new Contracts move forward with release of a RFP by May 2012 to allow adequate time to complete the entire RFP process in a thorough manner and obtain the best value for services. The recommended RFP process schedule details the steps and timing necessary to establish and implement new Contracts before current service agreements end in June 2015.

<ul style="list-style-type: none"> Mandatory RFP Release Conference <u>Start of Communications Limitations under Protocol for Process Integrity</u> 	Wednesday, May 23, 2012
Mandatory Pre-Proposal Conference	Wednesday, June 13, 2012
Proposals Due	Wednesday, September 12, 2012
<ul style="list-style-type: none"> <u>City Administrator Memo Announcing Top-Ranked Proposals</u> <u>Protest Period Begins</u> 	December 2012
<ul style="list-style-type: none"> <u>Publication of Council Report Presenting Top-Ranked Proposals (10-day notice)</u> <u>Protests Filed and Investigation Outcome Published</u> <u>End of Communications Limitations under Protocol for Process Integrity</u> 	Friday, January 18, 2013
Council Report Presenting Top-Ranked Proposals Selected through RFP (Special Meeting, 5th Tuesday)	Tuesday, January 29, 2013
Council Report on Authorization to Enter Exclusive Negotiations with Top-Ranked Proposers	March 2013
Exclusive Negotiation Period Ends	August 2013
Council Report to Approve CEQA & Contracts	October 2013
Execution of Contracts	January 2014
Begin Operations	July 2015

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Prospective respondents would be required to attend a mandatory proposal release meeting. At the meeting they would receive the RFP and become an eligible respondent by signing an affidavit acknowledging receipt of the RFP and agreeing to adhere to the Protocol for Process Integrity (discussed below). The City would provide written RFP addenda to all eligible respondents for any necessary amendments or clarifications to the RFP resulting from questions and issues raised by eligible respondents. Based on Oakland's size and location, staff anticipates multiple responsive proposals will be submitted through the RFP process.

Proposals received by the submittal due date would be screened to confirm that they are complete and responsive, and then reviewed and ranked under a detailed and thorough evaluation process. The entire RFP process would be managed by a Project Manager, and conducted by a designated Process Coordinator who would facilitate the review and evaluation work of several teams composed of City staff, the City's technical assistance consultant, and other experts in the field. The evaluation process will involve several distinct steps, including screening to confirm that proposals meet minimum qualifications, extensive technical and financial review and analysis, facility investigation, review of performance in other jurisdictions, interviews, and finally scoring and ranking.

The evaluation process will identify a top-ranked proposal for each of the three contracts, which would be published in a City Council report. Following announcement of the top rankings, a protest period will provide an opportunity for a designated staff member assigned as a Protest Hearing Officer to hear and address any protest issues raised by respondents. Upon completion of the protest period and disposition of any protests by the Hearing Officer, staff will seek City Council authorization to enter into exclusive negotiations with the respondent submitting the top-ranked proposal or proposals for each contract in order to finalize Contracts. Staff will return to City Council with a recommendation once negotiations are completed.

Protocol for Process Integrity

The City's mission and goals for procurement include upholding the highest ethical and professional standards. Recognizing the value and length of the agreements for new Contracts as well as the expense for the City and respondents to participate in the process, a Protocol for Process Integrity (Protocol) for this RFP expanding on the City's high standards and safeguards will be established as detailed in *Attachment A*.

The intent of the Protocol is to ensure an impartial climate, and establish a transparent system for communication between the City and prospective respondents to the RFP that guarantees consistency and fairness. The Protocol sets a code of conduct for participants in the RFP process, and provides mechanisms for ensuring that this code is observed. Affected parties under the Protocol would be those involved in a proposal submittal, proposal evaluation, and contract

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award including: City staff, City agents such as consultants, prospective respondents and their agents, and City elected officials.

The Protocol informs any person involved in proposal submittal, proposal evaluation, and contract award about potential conflicts of interest, and provides a procedure for screening potential conflicts of interest. It includes specific provisions for the proposal evaluation period to protect the confidentiality of the evaluation process and of information in proposal responses.

Specific provisions of the Protocol include:

- A Code for Communications (*Attachment B*):
 - After issuance of the RFP and until the announcement of the top-ranked proposals, all communication between eligible respondents who have received the RFP (and intend to submit a proposal) and the City must be in writing and through the designated Process Coordinator.
 - After the announcement of the top-ranked proposals, communication between eligible respondents and the City must be in writing and through a designated Protest Hearing Officer.
 - After completion of the protest period, contact between eligible respondents and City staff, City agents, or elected officials is permissible.
- Eligible respondents will submit any partnership disclosures by the due date, avoid collusion with one another, and ensure compliance with the Protocol by their employees and agents.
- City staff and City agents such as consultants participating in proposal review and evaluation will sign a confidentiality agreement (*Attachment C*) and complete a conflict of interest form (*Attachment D*).
- The City will follow procedures detailed in the Protocol for investigating any allegations of conflict of interest or misconduct by any participant in the RFP process.

Additional process integrity safeguards will be implemented to supplement the specific provisions of the Protocol. Prospective respondents would be required to attend a mandatory proposal release meeting in order to receive the RFP and become eligible to propose. A designated Process Coordinator will serve as the point of contact and conduit for all communications between the City and respondents, and among and between work teams performing proposal review, evaluation, scoring, and ranking. The entire RFP process will be overseen by an Executive Management Team, which would include the Public Works Director and representatives from the City Administrator's Office, Finance and Management Agency, and Office of the City Attorney.

Additional RFP Issues for City Council Consideration

Before issuing the RFP staff will return to City Council with additional issues for consideration including:

- Criteria for evaluating RFP responses
- Provisions for local employment, local business enterprise participation, and minimum wages and benefits
- Service provider performance incentives
- Adjustment method for rates paid by residents and businesses

SUSTAINABLE OPPORTUNITIES

Economic: Implementing a Zero Waste System in Oakland will help Oakland businesses and residents reduce waste and mitigate the long-term trend of increased disposal costs associated with landfill-based systems. Expanding and actively supporting use of discarded materials drives local economic and workforce development with 'green collar' jobs and value added production.

Environmental: Implementing a Zero Waste System will promote sustainability, conserve natural resources, reduce air and water pollution, protect habitat, and reduce greenhouse gas (GHG) emissions.

Social Equity: Implementing a Zero Waste System in Oakland will help provide new living-wage jobs for the community, as well as preserve and enhance natural systems that provide basic ecological services such as clean water, clean air, and safe food.

DISABILITY AND SENIOR CITIZEN ACCESS

This report will not have any direct impact on access for persons with disabilities or senior citizens.

RECOMMENDATION AND RATIONALE

It is recommended that the City Council approve the attached resolution which adopts the RFP schedule and Process Integrity Protocol described in this report. The recommended RFP schedule will allow adequate time for completing the entire RFP process in a thorough manner to obtain the best services and value, and implementing new Contracts before current service agreements end in June 2015. The recommended Process Integrity Protocol will enhance the City's high standards for transparency, consistency and fairness, and establish a code of conduct for all participants.

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Protocol for Process Integrity Zero Waste System - Request for Proposals

BACKGROUND

The City of Oakland is embarking on its first solicitation of proposals for solid waste and recycling services to be awarded as franchises. Because of term and value of the franchises the City must practice the highest standard of integrity to ensure our process is fair, and above suspicion and reproach.

PURPOSE

To provide a fair opportunity for participants in the competitive process for the award of (1) a Franchise Agreement for Exclusive Solid Waste and Organic Materials, and Non-exclusive Commercial Recycling Collection, Processing and Transfer Services; (2) a Franchise Agreement for Residential Recycling Collection and Processing Services; and (3) a Long Term Contract for Solid Waste Landfill Disposal.

The intent of the Protocol is to create an impartial climate and establish a process for communication between the City and potential respondents during the RFP process, inform any person involved in the decision to award the contracts about conflicts of interest, and provide a procedure for screening of potential conflicts of interest. The Protocol applies to City staff, City's agents such as consultants, potential respondents, and decision makers.

PROCESS

The definition of Competitive Process for this Protocol shall mean procurement and contract activities including specification development, preparation and issuance of request for proposals, evaluation of proposals and submissions, and other evaluations that lead to an award of these City contracts:

I. Code for Communications:

This section describes the characteristics of appropriate communication between respondents and the City during various phases of the Request for Proposals (RFP) process.

A. Prior to Issuance of the Request For Proposals:

Prior to the issuance of the RFP, communication between prospective respondents and City staff, elected officials, or consultants is permissible.

B. After Issuance Of The Request For Proposals And Prior To Submission Deadline For Proposals:

After issuance of the RFP, all prospective respondents shall communicate with the City *only* through the designated Process Coordinator identified in the RFP. Prospective respondents shall not communicate with City staff, City agents, and elected officials and instead will refer any inquiries to the designated Process Coordinator.

All requests for clarification, objections to the structure, content, distribution of the RFP, and other inquiries from prospective respondents must be made in writing; the City shall answer these clarifications, objections, and inquiries in writing via addenda to the RFP.

C. After Submission Deadline Of The Request For Proposals And Prior To Publication Of The Recommendations:

After the submission deadline for proposals, all communication regarding the RFP may only be directed to the designated Process Coordinator. Prospective respondents shall not communicate with City staff, City agents, and elected officials and instead will refer any inquiries to the Process Coordinator.

D. After Publication of the Recommendations:

The City Administrator will publish the recommendations of top ranked proposals. The City will notify all respondents including the basis for selection and instructions for filing a protest. Respondents wishing to file a protest shall follow the procedures indicated in the RFP document. During the protest period, prospective respondents shall not communicate with City staff, City agents and elected officials and instead will refer any inquiries to the Protest Hearing Officer identified in the RFP.

E. After Completion of the Protest Period:

After completion of the protest period, contact between respondents and City staff, City agents, and elected officials is permissible. Respondents may appeal the protest decision at a hearing of the City Council.

II. Respondents Code of Conduct

By requesting a RFP package from the City, potential respondents agree to adhere to this Protocol, including the Code of Communications, and are responsible for ensuring compliance with this Protocol on behalf of a respondent's employees, agents, consultants, lobbyists, or other parties or individuals engaged for purposes of developing or supporting a proposal.

In addition to adhering to the requirements of the Protocol, respondents must comply with the City Debarment Program (Oakland Municipal Code (OMC) Chapter 2.12.050). Grounds for debarment include:

- colluding, directly or indirectly, among themselves in regard to the amount, terms or conditions of a solicitation;
- influencing any City staff member or evaluation team member from the issuance of the RFP to the end of the protest period; and
- submitting incorrect information in the response to a solicitation or misrepresent or fail to disclose material facts during the evaluation process.

Any evidence that indicates a respondent has failed to adhere to any section of this Protocol and OMC Chapter 2.12, may result in the City Administrator disqualifying the respondent from the RFP process as well as possible debarment. Respondents will cooperate with the City Administrator in any investigation.

III. Confidentiality During Evaluation Process

City staff, consultants, and outside evaluators, who are participants in the evaluation process, are required to sign a Confidentiality Agreement, which binds the participants not to share any information about responses received or the evaluation process until the City Administrator publishes the recommendations of the top ranked proposals.

IV. Conflict of Interest

Per the General Rule with Respect to Conflicts of Interest, outlined in OMC Chapter 3.16 "Code of Ethics", City elected officials, appointed officials, their staff, and City employees are expected to avoid any conflicts of interest. Further, employees should avoid the appearance of conflicts of interest in order to ensure that City decisions are made in an independent and impartial manner.

For this procurement the City shall specifically use these measures:

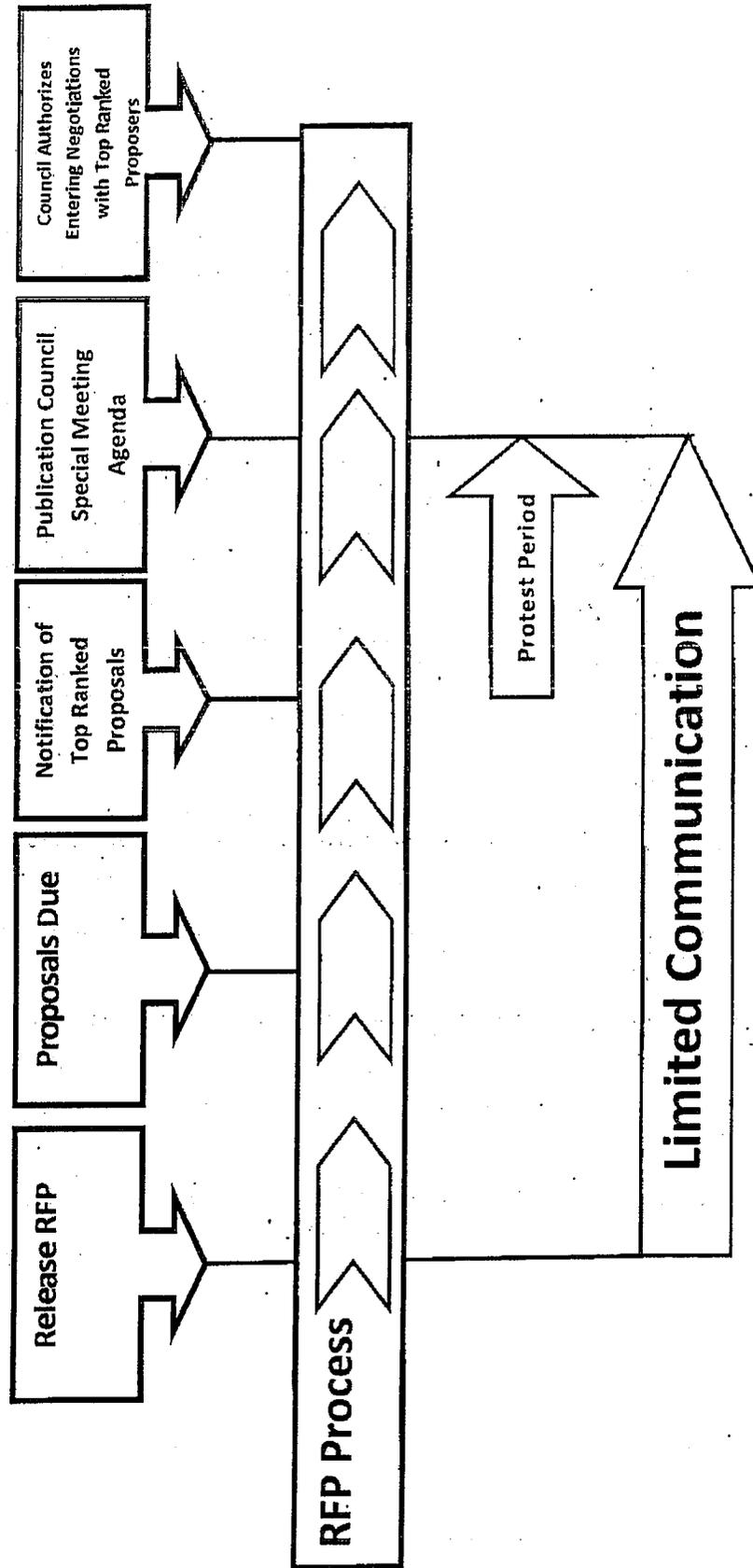
1. Professional procurement and contracting staff, including specialists, managers, directors, members of the City Attorney's office and others who will participate in the making of these contracts on behalf of the City shall be provided a list of potential respondents and shall disclose relevant financial interest as required by State Law and by City Policy.
2. "Persons not regularly involved" but who may be involved in this City procurement processes shall review this Protocol and other ethical standards and complete a Conflict of Interest Form for the City Attorney's Office to determine if the person's participation would create a conflict of interest. "Persons not regularly involved" shall include, but are not limited to:
 - authors of specifications
 - evaluators
 - consultants who assist in the RFP process
3. The City Administrator shall discuss any identified potential conflicts of interest with the City Attorney's Office, document the resulting determination, and take appropriate action. The City Administrator may, but is not limited to, remove an employee, consultant, or outside uncompensated party from the procurement activity, including canceling the solicitation.

V. Allegations of Violations

Prior to the RFP release up to award of contract, any allegations of Conflict of Interest or violations of this Protocol shall be reported to the City Administrator. The City Administrator shall investigate the alleged conflict of interest in consultation with the City Attorney's Office and document the resulting determination.

Nothing in this Policy is intended to prohibit anyone from communicating with the City Administrator's Office, the City Attorney's Office, the City Auditor's Office, or the Mayor or any City Council Member about any alleged misconduct.

**Code for Communications
Zero Waste System – Request for Proposals**



City of Oakland

Zero Waste System Request For Proposals Process

CONFIDENTIALITY AGREEMENT

I _____ AGREE that I am assigned to review, evaluate, or recommend the Request for Proposals for (1) Franchise Agreement for Exclusive Solid Waste and Organic Materials, and Non-exclusive Commercial Recycling Collection, Processing and Transfer Services; and/or (2) Franchise Agreement for Residential Recycling Collection and Processing Services; and/or (3) Long Term Contract for Solid Waste Landfill Disposal and that:

- (a) I have received and understand the City's Process Integrity Protocol for the Zero Waste System Request For Proposals; and
- (b) I have completed a Conflict of Interest Form; and
- (c) I understand that in the course of performing this assignment I may come into contact with information which is proprietary or confidential to City employees or agents, or other parties including but not limited to prospective collection, processing or disposal service providers; and
- (d) I understand that Confidential Information may include, but is not limited to: data relating to, the tax revenues, taxpayer information, taxpayer products, equipment, inventions, discoveries, trade secrets, secret processes, financial data, personnel records, financial records, computer programs, marketing information, attorney-client privileged interpretations of contractual terms, contract-negotiating positions, and any other information relating to the business affairs of the City, or other parties; and
- (e) I will not use or disclose the Confidential Information for any purpose whatsoever other than the performance of this assignment unless I am directed to do so by the City Administrator on advise of the City Attorney's Office.

Name Date

Tide _____

City of Oakland
CONFLICT OF INTEREST FORM
Zero Waste System – Request For Proposals

NAME: _____ DATE: _____

ASSIGNMENT: *Review, evaluate, or recommend for Proposals (1) Franchise Agreement for Exclusive Solid Waste and Organic Materials, and Non-exclusive Commercial Recycling Collection, Processing and Transfer Services; and/or (2) Franchise Agreement for Residential Recycling Collection and Processing Services; and/or (3) Long Term Contract for Solid Waste Landfill Disposal.*

This form must be completed by each person that participates in the above-referenced assignment, so that the City may assess whether the proposed staff, including consultants, exhibit a conflict of interest. A list of potential proposers will be provided.

Questions	Yes (Provide Details)	No
1. Do you have any official, professional, financial or personal relationships with any person or firm known to be participating in this Request For Proposals?		
2. Would the relationship identified in Question 1 affect your judgment or your ability to execute this assignment in a fair and impartial manner?		

Questions	Yes (Provide Details)	No
<p>3. Stock and Investments</p> <p>(a) Do you own stock in any company likely to be affected by or involved in the Proposed Assignment?</p> <p>(b) Does your spouse, domestic partner, or a dependent own any stock in company likely to be affected by or involved in the Proposed Assignment?</p> <p>(c) Do you hold any investments in any entity (e.g. partnership, limited liability company, or a trust) likely to be affected by or involved in the Proposed Assignment?</p> <p>(d) Does your spouse, domestic partner, or a dependent hold any investments in any entity (e.g. partnership, limited liability company, or a trust) likely to be affected by or involved in the Proposed Assignment?</p> <p>If the answer is yes to any of the above questions, please provide the name of the company and the amount of the stock or investment.</p>		
<p>4. Employment & Consulting</p> <p>(a) Is your spouse, domestic partner, or a dependent employed/retained by anyone likely to be affected by or involved in the Proposed Assignment?</p> <p>(b) Has your spouse, domestic partner, or dependent been previously employed/retained by anyone likely to be affected by or involved in the Proposed Assignment?</p> <p>(c) Have you been employed/retained by anyone likely to be affected by or involved in the Proposed Assignment?</p>		

Questions	Yes (Provide Details)	No
<p>if the answer is yes to any of the above questions, please provide name of the employer, nature of services provided, and date of employment/retainment.</p> <p>6. Positions</p> <p>(a) Do you currently hold a position (e.g. member of a board of directors) of any entity (e.g. a company, partnership, association, nonprofit) that is likely to be affected by or involved in the Proposed Assignment?</p> <p>(b) Does your spouse, domestic partner, or a dependent hold a position (e.g. member of a board of directors) of any entity (e.g. a company, partnership, association, nonprofit) that is likely to be affected by or involved in the Proposed Assignment?</p> <p>If the answer is yes, please provide the name of the entity, and the title of the position held.</p>		

If during the course of the assignment any personal, external, or organizational impairments occur that may affect your ability to do the work and report findings impartially, notify the City Administrator of the City of Oakland immediately at (510) _____.

Signature

CITY OF OAKLAND
Public Ethics Commission

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



Whitney Barazoto, Executive Director

TO: Public Ethics Commission
 FROM: Whitney Barazoto, Executive Director
 DATE: June 20, 2012
 RE: Commission Priorities

Given the Commission's current staffing situation and the surrounding City administrative environment, staff proposes having a discussion about the Commission's priorities – how it should focus its work in the coming months and years – at its August 6, 2012, Commission meeting. This memorandum seeks to provide some background information that may be helpful to the discussion.

Attached is a snapshot of the Commission's responsibilities, as outlined by City ordinance. In addition, below is a description of the Commission's mission and goals as enumerated on its website:

Mission and Goals

Simply, we help ensure that our City government works the way it's supposed to. We work to promote confidence in our government by making sure you are treated fairly at all times, with honesty and integrity. Specifically, we:

- Inform you about your rights to obtain information about City government
- Create easier access to public information and meetings
- Educate City officials, employees, Board and Commission members and candidates for elected office about ethics laws
- Investigate complaints about possible violations of ethics laws under our authority
- Recommend changes in laws to promote ethical government
- Set the standard, by example, for ethical conduct

Staff proposes that the Commission and members of the public consider questions such as the following for discussion at the August meeting:

1. Do the Commission's articulated mission and goals reflect the range of responsibilities outlined in City ordinance?

2. Do the Commission's activities produce the results sought by the law?
3. What additional activities could the Commission do to more effectively meet its mandate?
4. Of the responsibilities within the jurisdiction of the Commission, what are the major issues of importance that should be the focus of its limited resources?

Staff requests input from Commissioners and members of the public on additional questions that could be explored at its August 6, 2012, Commission meeting. Suggestions for discussion questions may be offered at the July 2, 2012, meeting or by phone, mail or email to the Commission's office anytime before July 27, 2012.

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.

