

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Thursday, August 23, 2012
Hearing Room 2
7:30 p.m.



Commissioners: Richard Unger (Chair), Lloyd Farnham (Vice-Chair), Aspen Baker, Roberta Johnson, Benjamin Kimberley, Monique Rivera

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

SPECIAL MEETING AGENDA

**Please note the later start time of 7:30 p.m. for this Special Meeting,
as well as the location: Hearing Room 2.**

- 1. Roll Call and Determination of Quorum**
- 2. Staff and Commission Announcements**
- 3. Open Forum**

ACTION ITEMS

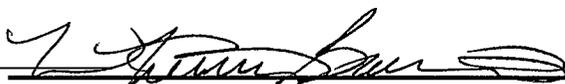
- 4. Limited Public Financing Program.** The Commission will review the available funds for the Limited Public Financing Program and make a determination about how to distribute funds to candidates running for district City Council in the November 2012 election.
(Attachment 1)

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.

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.


Approved for Distribution

8/21/12
Date

CITY OF OAKLAND
Public Ethics Commission

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



Whitney Barazoto, Executive Director

TO: Public Ethics Commission
 FROM: Whitney Barazoto, Executive Director
 DATE: August 20, 2012
 RE: Limited Public Financing Act Program 2012; Distribution of Funds

The Limited Public Financing Act (LPF Act), enacted in 1999, provides District City Council candidates with some public funds to be used for campaign expenses, with the goal of helping ensure that all individuals have a fair and equal opportunity to participate in the elective and governmental process. The process for applying for LPF funds begins after the City Clerk certifies the names of all candidates to appear on the ballot.

On August 16, 2012, the City Clerk certified the names of all of the November 2012 candidates for City office. Attached is the list of certified candidates, which was finalized on August 16. The Commission now must determine 1) whether the amount of money in the Election Campaign Fund is adequate to provide the maximum amount of funds allowable by law to each potentially eligible candidate, and if not, then 2) how to distribute the funds on either a pro rata or other equitable basis. This memorandum provides background information and a recommendation to assist in the Commission's determination.

Background

Oakland Municipal Code Chapter 1.13, as amended in 2010, outlines the current provisions of the Limited Public Finance Act.

Section 3.13.065 of the LPF Act outlines the process for determining how to allocate LPF funds to candidates:

“No later than seven days after the city clerk has certified the names of all candidates to appear on the ballot, the public ethics commission shall determine at a publicly noticed meeting whether, based on the number of potentially eligible candidates, the amount of money in the election campaign fund is adequate to provide the maximum amount to potentially eligible candidates. If the commission determines that the election campaign fund will not be adequate to provide the maximum amount of funds to potentially eligible candidates, the commission shall order the disbursement of available funds on a pro rata or other equitable basis. The commission may at any time revise the disbursement plan consistent with these rules and prevailing law.”

Section 3.13.110(E) of the LPF Act sets the maximum amount of funds to be allocated to each candidate at 30% of the voluntary expenditure ceiling for the office being sought.

In addition, Section 3.13.060(D) authorizes up to 7.5 percent of the total amount in the Election Campaign Fund to be used by the Public Ethics Commission to cover anticipated costs of administering the LPF program.

Analysis

1. Is the amount of money in the Election Campaign Fund adequate to provide the maximum amount of funds allowable by law to each potentially eligible candidate?

The combined total amount in the Limited Public Financing Election Campaign Fund for fiscal years 2011-12 and 2012-13 is \$129,449.68 to be available for the November 2012 election. The Commission is authorized to receive 7.5%, or \$9,708.73 to cover the costs of administering the provisions of the Act. Therefore, the remaining balance of **\$119,740.95** will be available for distribution to the candidates who opt into the program.

As of August 16, 2012, the City Clerk’s final certification list includes 20 candidates running for election to the office of District City Councilmember in districts 1, 3, 5, and 7.

The chart below shows the breakdown of the number of candidates per district race, the voluntary expenditure ceiling and maximum potential LPF amount per candidate for each district, and the total amount of public funds that would be needed in order to offer each candidate the maximum amount of public funds allowable under the LPF Act, if all of the 20 candidates opted into the program.

District Number	Number of Certified Candidates	Expenditure Ceiling	Maximum Potential LPF Amount for Each Candidate	Total Funds Needed per District to Provide the Maximum Amount	Total Amount Needed in Election Campaign Fund
1	7	\$111,000	\$33,300	\$233,100	\$710,400
3	6	\$119,000	\$35,700	\$214,200	
5	4	\$124,000	\$37,200	\$148,800	
7	3	\$127,000	\$38,100	\$114,300	

In order to offer each candidate the maximum amount of public funds allowable under the LPF Act, the Election Campaign Fund would require a total of \$710,400, if all of the 20 candidates accepted LPF program participation.

Because the current fund balance available to candidates is \$119,740.95, the amount of money in the Election Campaign Fund is not adequate to provide the maximum amount allowed by law to potentially eligible candidates. Since the fund balance is not adequate to provide the maximum amount to each candidate, the Commission must determine how to distribute the available funds on a pro rata or other equitable basis.

2. How should the available funds be distributed?

A simple pro rata distribution of the current Election Campaign Fund balance can be achieved by dividing the balance of \$119,740.95 by the total number of candidates who have been certified by the City Clerk and who, within 14 days of certification, have submitted their Statement of Acceptance of the LPF program to the Public Ethics Commission. Once the 14-day deadline passes, Commission staff will calculate the total number of candidates who accept participation in the program and then divide the total amount available in the Election Campaign Fund by the number of participating candidates.

Recommendation

Staff recommends that the Commission issue a finding that the amount of money in the Election Campaign Fund is not adequate to provide the maximum amount of money to potentially eligible candidates, and that the balance of \$119,740.95 will be divided equally by the total number of candidates who accept participation in the Limited Public Financing program by the 14-day deadline.



Office of the City Clerk
Qualified List of Candidates
November 6, 2012 General Municipal Election
(As of August 15, 2012)

City Attorney

Barbara Parker

Jane Brunner

City Council District 1

Amy Lemley

Donald L. Macleay

Richard Raya

Leonard Raphael

Dan Kalb

Craig Brandt

Gordon A. "Don" Link

City Council District 3

Sean Sullivan

Derrick Muhammad

Lynette Gibson-McElhaney

Alex Miller-Cole

Larry Lionel Young, Jr.

Nyeisha DeWitt



Office of the City Clerk
Qualified List of Candidates
November 6, 2012 General Municipal Election
(As of August 15, 2012)

City Council District 5

Shelly Garza

Noel Gallo

Mario Juarez

Dawn McMahan

City Council District 7

Beverly Williams

Sheryl Walton

Larry Reid

City Council At-Large

Ignacio De La Fuente

Rebecca Kaplan

Theresa Anderson-Downs

Mick Storm

Carol Lee Tolbert

School Board Director District 1

Jody London

Thearse Pecot

School Board Director District 3

Richard Fuentes



Office of the City Clerk
Qualified List of Candidates
November 6, 2012 General Municipal Election
(As of August 15, 2012)

Jumoke Hinton-Hodge

Benjamin Lang

School Board Director District 5

Roseann Torres

Mike Hutchinson

School Board Director District 7

James Harris

Alice Spearman

