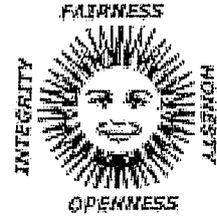


CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Commission Meeting
Tuesday, April 9, 2013 (*Rescheduled from April 2*)
Sgt. Mark Dunakin, Hearing Room 1
6:30 p.m.



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

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

SPECIAL MEETING AGENDA

We will be meeting on Tuesday, April 9, 2013, rescheduled from Tuesday, April 2.

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

CONSENT ITEMS¹

4. **Approval of Commission Draft Minutes.**
 - a. February 4, 2013, Meeting Minutes (Attachment 1)
 - b. March 4, 2013, Retreat Meeting Minutes (Attachment 2)

ACTION ITEMS

5. **Public Ethics Commission Annual Report 2012.** The Commission will review a draft of the Public Ethics Commission Annual Report for 2012. The Commission may make changes to the draft and/or adopt the report. (Attachment 3)
6. **Public Ethics Commission Framework to Ensure Compliance.** The Commission will review and potentially adopt a framework and graphic illustration of the Commission's approach to ensuring compliance with government integrity laws. (Attachment 4)

DISCUSSION ITEMS

7. **Non-Interference in Administrative Affairs.** The Commission will discuss the Oakland City Auditor's Non-Interference in Administrative Affairs Performance Audit, issued March 21, 2013. (Attachment 5)

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

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Commission Meeting
Tuesday, April 9, 2013 (*Rescheduled from April 2*)
Sgt. Mark Dunakin, Hearing Room 1
6:30 p.m.



8. **Ethical Climate Survey.** The Commission will review the Oakland City Auditor's annual City government Ethical Climate Survey for 2012, released in March 2013. (Attachment 6)
9. **Subcommittee Reports.** The Commission currently has two subcommittees: 1) Access to Public Records, and 2) Complaint Procedures. The Commission may make announcements and administrative changes to either of these subcommittees.
10. **Complaint/Enforcement Program.** An updated list of pending cases is included. Commissioners may discuss the complaint process in general and may discuss any of the complaints listed in the attached spreadsheet. (Attachment 7)

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

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

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

Mark Dunakin 3/29/13
Approved for Distribution Date

CITY OF OAKLAND

DRAFT



PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Commission Meeting
Monday, February 4, 2013
Sgt. Mark Dunakin, Hearing Room 1
6:30 p.m.

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

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

MEETING MINUTES

1. Roll Call and Determination of Quorum.

The meeting was called to order at 6:35 p.m.

Members present: Commissioners Farnham, Johnson, Kimberley, Rivera, Tejada, and Whitman

Staff present: Whitney Barazoto and Kathleen Salem-Boyd

2. Staff and Commission Announcements.

Ms. Barazoto announced that the Commission has hired three new interns to assist staff on a part-time basis.

Chairman Farnham welcomed newly appointed Commissioners Whitman and Tejada to the Commission.

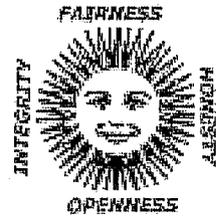
3. Open Forum.

There were no speakers.

CONSENT ITEMS

4. Approval of Commission Draft Minutes.

The Commission approved 6-0 the January 7, 2013, Meeting Minutes.



PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Commission Meeting
Monday, February 4, 2013
Sgt. Mark Dunakin, Hearing Room 1
6:30 p.m.

GUEST PRESENTATION

5. Electronic Filing of Campaign Statements and Form 700 Statements of Electronic Interests

Tom Diebert, Vice President and Chief Operating Officer of NetFile, presented an overview of the NetFile electronic filing system that the City currently utilizes for e-filing of campaign statements and Form 700 Statements of Economic Interest.

There were two speakers: Oliver Luby and Councilmember Libby Schaaf.

ACTION ITEMS

6. Review of Draft Legislation to Require Electronic Filing of Campaign Statements.

Deputy City Attorney Amber Macaulay presented an overview of the proposed ordinance to require electronic filing of campaign statements.

Councilmember Libby Schaaf discussed the context and purpose for the legislation and requested feedback from the Commission.

There were four speakers: Oliver Luby, Katherine Gavzy, Barbara Newcombe and Tamika Thomas.

Commissioner Johnson moved and Commissioner Kimberley seconded to formally support the draft legislation requiring electronic filing of campaign statements. The motion passed 5-0. (Commissioner Rivera was absent for this vote)

7. Complaint/Enforcement Program.

a. Dismissal of Complaint Not in Commission Jurisdiction

- i. Commissioner Farnham moved and Commissioner Johnson seconded to approve 5-0 the dismissal of Complaint No. 13-01 (Jones-Taylor) on the grounds that the alleged violations are not in Commission jurisdiction.

8. Subcommittee Reports.

Chairman Farnham appointed Commissioner Tejeda to the subcommittee on Access to Public Records and selected Commissioner Baker to Chair that subcommittee.



PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Commission Meeting
Monday, February 4, 2013
Sgt. Mark Dunakin, Hearing Room 1
6:30 p.m.

Chairman Farnham reported that the Complaint Procedures subcommittee met on January 29, 2013 and has made progress to modernize the Commission's Complaint Procedures.

There was one speaker: Arly Flores-Medina

The meeting adjourned at 8:53 p.m.

CITY OF OAKLAND

DRAFT

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



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

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

MEETING MINUTES

1. Establish a Quorum.

The retreat was called to order at 3:00 p.m.

Members present: Lloyd Farnham, Aspen Baker, Roberta Johnson, Benjamin Kimberley, Monique Rivera, Eddie Tejada, and Jenna Whitman

Commission staff present: Whitney Barazoto, Lauren Angius, and D'nette Savannah
City Attorney's Office staff present: Kathleen Salem-Boyd, Mark Morodomi and Arlette Flores-Medina.

2. Open Forum.

Four members of the public attended the retreat and openly participated in all aspects of discussion and activity.

3. Public Ethics Commission Retreat: "Building Capacity"

The Commissioner participated in discussion and activities that focused on the organizational needs of the Commission and its members. Specifically, Commissioners discussed the following:

- a. Role of the Commission within the structure and environment of Oakland City government
- b. Commission authority and governing laws
- c. Commission accomplishments for 2012-13
- d. A visual model to symbolize the Commission's approach to ensuring compliance with ethics and campaign finance laws
- e. Commission activities, priorities, and projects to focus Commission work in 2013-14

No formal action was taken during the retreat, which adjourned at 9:20 p.m.

City of Oakland Public Ethics Commission



ANNUAL REPORT 2012



Public Ethics Commission
1 Frank Ogawa Plaza (City Hall), 11th Floor
Oakland, CA 94612
www.oaklandnet.com/pec
ethicscommission@oaklandnet.com



BUILDING CAPACITY

The Public Ethics Commission is charged with ensuring fairness, openness, honesty and integrity in City government and is equipped with the authority to oversee compliance with certain local ordinances aimed to achieve these broad goals. In April 2012, after not operating for almost a year due to budget reductions and the retirement of the one remaining staff, the Commission hired an executive director and began to lay the foundation for new and collaborative approaches toward enhancing integrity in City government. The Commission's initial work in 2012 shows the beginning of what is to come, and this report seeks to highlight that work as the Commission continues to build its capacity to effectively fulfill its mission.

After stepping into 2012 with no staff and a displaced office, the Commission devoted considerable attention to rebuilding Commission staffing and moving into new office space while also working to establish priorities and determine how best to carry out its duty to ensure compliance with ethics-related laws. The Commission's priorities, adopted in August, 2012, reflect a desire to focus on ensuring compliance through outreach, enforcement, and systems reform.

Highlights from 2012 include providing political candidates, public officials, and City employees with information about campaign finance laws, ethics concepts, and restrictions on the use of public funds for campaign or personal purposes. The Commission began to update its website and publications as part of a broad project to transform the Commission's web-based information to better share information and engage candidates, officials and employees around ethics and transparency issues. The Commission also reached out through social media, and its entry onto Facebook and Twitter are just a glimpse of how the Commission will incorporate broader social media into its communications and public information strategy. The Commission closed a total of 19 cases alleging violations of various campaign finance, conflict of interest, and open government laws; and on the staffing front, the Commission is pleased to report that it began 2013 with a full 7-member board, one full-time director, a part-time employee, and four interns.

The Public Ethics Commission continued to face significant challenges in 2012 in meeting expectations set by law and accomplishing the goals for which it was established. Staff conducted a comprehensive analysis of the Commission's responsibilities under the law and determined that a total of 5 staff are needed to fulfill the legal mandate. The Commission is heading into the 2013-14 budget cycle with only one full-time position; the part-time position that was in place during the second half of 2012 will no longer exist by July, 2013. The Commission will need the additional position in order to continue the intern support and momentum that developed by the end of 2012 and has carried into 2013.

While the Commission's energy and focus continues to swell, much work remains. Staff and Commissioners want to revamp the Commission's website to serve as a hub for information and links about all things ethics and campaign-related, and to be a forum for City staff, public

officials, citizens, and others to engage with each other around these issues. The Commission needs to enforce the law through routine audit reviews and investigations of campaign finance laws, and it needs a complaint process that facilitates streamlined and effective enforcement. The Commission must work with City staff to ensure appropriate policies and systems are in place to achieve greater compliance with Sunshine and other laws. And the Commission needs to communicate with the City and the public in a way that reinforces and bolsters the attention given to ensuring that all stakeholders comply with government integrity laws. As a practical matter, at least one full-time position is needed in each of these separate areas, yet the Commission has only one staff. Despite the shortage, the Commission will continue to prioritize goals and complete projects that seek to make the greatest impact for the City of Oakland and its citizens.

ENSURING COMPLIANCE

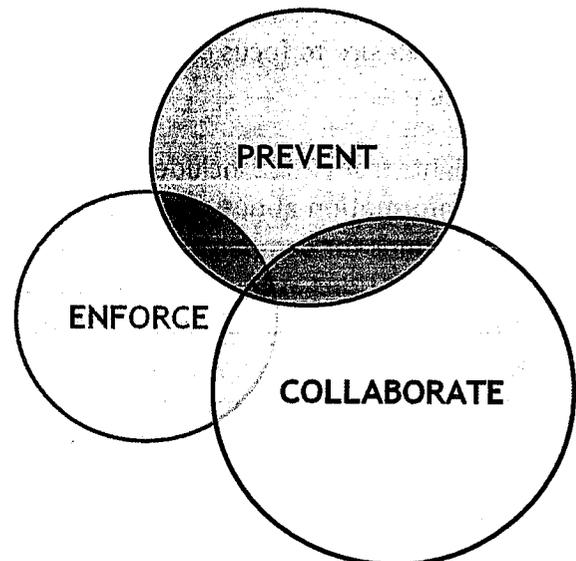
The Public Ethics Commission ensures compliance with transparency and open government laws through a comprehensive approach that emphasizes prevention, enforcement and collaboration.

PREVENTION

Prevention activities consist of education, outreach, and information to help Commission clients comply with government integrity laws. Commission clients include candidates for local elective office, elected officials, public officials, City staff, Lobbyists, contractors doing business with Oakland, City residents, businesses, and organizations.

In summer 2012, the Commission published its first-ever **Local Candidate Information Packet**, with comprehensive information about state and local laws governing campaign finance activities and conflicts of interest rules for candidates. The packet was published on the Commission's website, and a summary overview of the laws, along with website hyperlinks for more information, was included in the election packet distributed to each candidate by the City Clerk's office.

The Commission joined **Facebook** and **Twitter** to enhance its outreach capacity and made some initial improvements to its **Website** to make it easier to find information about Commissioners, meetings, agendas, subcommittee activities and documents, and lobbyist registration and activities. These improvements will continue into 2013. The Commission also acquired a



shorter URL/Website address, now consisting of www.oaklandnet.com/pec, to allow for easier sharing. The Website continues to offer the following **Commission publications**:

- How To Notice A Public Meeting And Respond To Requests For Public Information
- Handling Public Records Requests
- A Guide To Lobbyist Registration (updated in 2012)
- How To Apply For Public Financing
- A Guide To Oakland's Campaign Reform Act
- A Handbook For Members Of Oakland Boards And Commissions

During the second half of 2012, Commission staff assisted roughly two-dozen individuals seeking **advice** on campaign finance, conflicts of interest, and lobbyist registration laws. The Commission compiled and distributed an introductory packet of **Ethics and Transparency materials for incoming City Council Members** and provided them with an overview of the Commission and its laws in December 2012 as they prepared to take office.

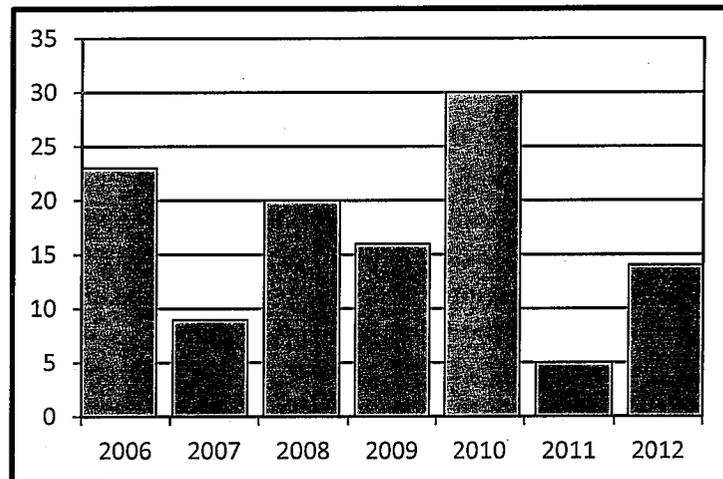
ENFORCEMENT

The Public Ethics Commission has the authority to conduct investigations, perform audits, hold public hearings, issue subpoenas, and impose fines and penalties for certain types of violations. The Commission also ensures compliance through alternative enforcement strategies, such as sharing information publicly and referring issues to another enforcement entity where appropriate.

The Commission received a total of **14 complaints in 2012** alleging violations of campaigns finance, conflicts of interest, open meetings, public records, and other ethics-related laws. This is up from 5 complaints in 2011, and compares to 30 complaints in 2010, 16 in 2009, 20 in 2008, 9 in 2007, and 23 in 2006.

During 2012, the Commission **closed 19 cases**, 11 of which had been filed in 2011 or earlier. Of these 19 cases, 8 complaints alleged violations of the Oakland Sunshine Ordinance, 3 complaints alleged violations of state laws regarding misuse of public resources, 1 complaint alleged a conflict of interest violation, 1 complaint alleged a ballot measure misidentification of a person's title, 1 alleged violation of campaign sign placement rules, and the rest consisted of allegations on issues wholly outside of the Commission's reach, such as real estate fraud and City government mismanagement.

Number of Complaints Filed by Year



Given its limited resources, the Commission focused its efforts on assessing its enforcement abilities, prioritizing cases based on level of importance and staff work required, closing the highest priority cases, and identifying ways to streamline the process. Nevertheless, the Commission ended 2012 with a total of 16 open cases, only 6 of which were opened in 2012. The remaining 10 cases were filed in 2011 or earlier, including 6 cases that were filed in 2010 and 2 that were filed in 2009.

In addition to the 3 complaints mentioned above regarding misuse of public resources, Commission staff was contacted informally by City staff and public officials on multiple occasions about the rules restricting the use of public funds for campaign or personal purposes. In response to the number of inquiries on this issue, the Commission hosted an **informational hearing on the misuse of public funds laws** in December to review and highlight the state laws restricting the use of City funds.

To ensure compliance with lobbyist reporting rules and to share information about lobbyist activities, the Commission publishes **lobbyist registration and reports of activities** on its Web site. The Oakland Lobbyist Registration 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 disclosing the lobbyist's clients or employer, as well as the subject of any lobbying. The Commission publishes these reports online to disclose the lobbyists' clients, the subject of governmental action lobbied upon, who was lobbied, the client's position on the item being lobbied, campaign contributions solicited by a lobbyist, and employment opportunities arranged by a lobbyist.

COLLABORATION

Beyond prevention and enforcement, the Public Ethics Commission enhances government integrity through collaborative approaches that leverage the efforts of City and community partners working on similar or overlapping initiatives. A collaborative approach recognizes that lasting results in transparency and accountability are achieved not through enforcement alone, but through a comprehensive strategy that aligns all points in the administration of City government – including clear policies and process, effective management and provision of staff resources, technology that facilitates the process, and an understanding of citizen expectations. In addition, the Commission serves as a trusted entity to take the lead on certain issues, such as setting the salary for City Council Members and distributing public funds to candidates under the City's campaign financing law.

As part of the Commission's responsibility to oversee compliance with the Oakland Sunshine Ordinance, Commission staff in 2012 conducted an initial **assessment of the City's access to public records system** and began to suggest changes that would lead to greater public access to City records. The Commission **co-sponsored and participated in CityCamp Oakland**, hosted by OpenOakland, to discuss open government and technology with City and community members.

citycampoak gov 2.0 in the town

The Commission revved up the project going into 2013 by creating a Commission subcommittee on access to public records and teaming with City staff on specific systems changes that will lead to greater accessibility of public records.

For the 2012 election, the Commission administered the **Oakland Limited Public Financing program**, in which candidates for district City Council seats could apply for and receive public money to assist them in their campaigns. Commission staff **distributed roughly \$60,000 in public funds** to eligible candidates. Staff also made significant changes to the tracking and administrative oversight of the processing of Limited Public Financing program payments, resolving all of the City Auditor's concerns in an audit of the program as it had been administered in 2010.

Pursuant to Measure P, adopted by Oakland voters in 2004, the **Oakland City Charter requires the Public Ethics Commission to annually adjust City Council salaries** by the increase in the consumer price index over the preceding year. In June, 2012, the Commission approved a 2.8 percent salary increase – the minimum required by law – for City Council Members, putting the total salary at \$76,172.62 effective for FY 2012-13.

Commission staff **consulted with City officials on issues** such as City Council non-interference in City administration, use of public funds for campaign or personal purposes, electronic filing of campaign statements, City administrative management review, and the Zero-Waste contract procurement process integrity measures.

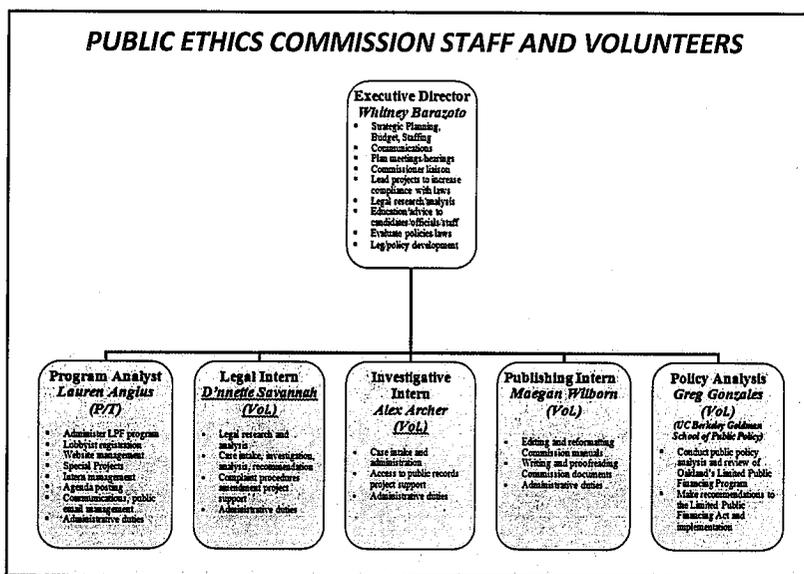
Staff also conducted a **seminar on Oakland's government integrity laws and institutions** for a visiting delegation from China in late 2012.



STAFFING UP

At the beginning of 2012, the Commission had no staff and had not been operating since June 2011, when it was last staffed by an Executive Director and an Administrative Assistant with a total budget of \$265,750 for FY 2010-11. In FY 2011-12, the City eliminated one FTE (full-time equivalent) position and reduced Commission funding by 43%, leaving only \$152,724 for the year. 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 was the same, with an increase of roughly \$9700 from the Election Campaign fund to cover administrative costs of the Limited Public Financing program as it was administered in 2012.

The Commission currently has one full-time position, filled by an Executive Director who joined the Commission in April 2012. City administrators provided the Commission with a part-time Program Analyst to assist the Commission, along with the ability to request some administrative assistance from staff that support other City programs. Given these limited resources, the Commission assessed needs and established a list of priorities in summer 2012 to accomplish the duties it deemed most important and valuable to the City. Commission staff worked to streamline assignments, partner with other City programs, and recruit part-time and volunteer workers. The Commission now retains four volunteers, in addition to one part-time employee, to support the work of the Executive Director and the Commission.



In December 2012, the Commission conducted a comprehensive analysis of its mandated duties and determined which activities could not be completed within existing resources. The assessment made clear that the Commission cannot meet its full mandate with only one FTE; rather, 5 staff are needed to accomplish all that is required under the law. The Commission communicated its staffing and budgetary needs to the City Administrator in advance of the 2013-15 budget process, specifically requesting two additional positions – a program analyst and an investigator – for FY 2013-14.

CURRENT COMMISSIONERS

Lloyd Farnham, Chair

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 earned his undergraduate degree from Occidental College, and his law degree from the UC 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. Mr. Farnham is a Commission appointee serving his term from 1/22/2011 – 1/21/2014.

Aspen Baker, Vice-Chair

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, who 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 many others.



Born in a trailer on the beach in Southern California, this U.C. Berkeley graduate holds a degree in Peace and Conflict Studies, is a former bartender and a one-time Alaska resident who can land a bush plane on a glacier. Ms. Baker is a Mayoral appointee for the term from 1/22/11 – 1/21/2014.

Ben Kimberley

Ben Kimberley is an attorney at the law firm of Winston & Strawn LLP. Over the last four years, Mr. Kimberley has investigated and litigated a number of cases involving relationships of trust and confidence. He has chaired the Ethics Subcommittee and Alternative Dispute Resolution Subcommittee of the American Bar Association's Litigation Section's Commercial & Business Litigation Committee. Mr. Kimberley currently serves on the Executive Board of the Young Lawyers Association and previously served as the American Bar Association's Young Lawyers Division's Northern California District Representative, where he was responsible for coordinating with the Federal Emergency Management Agency to provide legal services to victims of disaster in northern California. Mr. Kimberley has provided pro bono legal service to senior citizens, veterans, and the wrongly incarcerated, and he has lived in the Bay Area since 2005.



Mr. Kimberley received a B.A. in Political Science and International Studies from Northwestern University and a J.D. from the University of California, Boalt School of Law. Mr. Kimberley is a Commission appointee for the term from 6/11/2012 – 1/21/2015.

Roberta Ann Johnson

Roberta Ann Johnson was Professor of Politics at the University of San Francisco from 1985 to 2008. Specializing in American politics she also raised ethical issues particularly related to corruption, whistleblowing, and social justice, Dr. Johnson has published numerous journal articles and authored three books, *The Struggle Against Corruption: A Comparative Study*, *Puerto Rico: Commonwealth or Colony?*, and *Whistleblowing: When It Works – And Why*. Traveling extensively to lecture and present papers at international ethics conferences during her tenure, Dr. Johnson also served as a Fulbright Professor in Jakarta, Indonesia in 1992 and a Fulbright Senior Specialist in São Paulo, Brazil in 2008. Dr. Johnson's academic achievements and contributions to education have been recognized by awards from the California State Senate, the San Francisco Bay Area Federal Executive Board and the University of San Francisco.



Dr. Johnson earned her undergraduate degree from Brooklyn College and her Masters and PhD in political science from Harvard University. Dr. Johnson has climbed Mt. Kilimanjaro, has been a competitive open water Masters swimmer with the Oakland Temescal Aquatic Masters, and has competed in, and continues to win, hula hoop contests. Dr. Johnson is a Commission appointee for the term from 6/11/2012 – 1/21/2014.

Monique Rivera

Monique Rivera is a community activist and currently manages complex projects for Kaiser Permanente. She is a former business manager for Mustang Engineers & Constructors and has extensive financial and project management experience in the construction industry. Ms. Rivera is active in the Oakland Community Action Program, Big Brothers Big Sisters, the Hispanic Employee Association, and the Hispanic Chamber of Commerce. In addition, she served as the City of Oakland Mayor's Ambassador Coordinator. Ms. Rivera also is a member of the Professional Women in Construction and Construction Management Association of America.

Ms. Rivera earned her undergraduate degree from University of California, Berkeley, in Ethnic Studies and Biology. Currently, she is completing her Masters of Business Administration at Golden Gate University. Ms. Rivera is a Mayoral appointee for the term from 1/22/2012 – 1/21/2015.



Jenna Whitman

Jenna Whitman is a legal research attorney at the Alameda County Superior Court, where she advises judges on law and motion matters in civil litigation, serving one of the court's two complex litigation departments that handle class actions and other lawsuits requiring exceptional judicial management. Before that, Ms. Whitman represented both corporate clients and class action plaintiffs in a wide variety of complex civil disputes. She has provided pro bono representation to low-income clients, and for three years served on the board of the AIDS Legal Referral Panel, a non-profit legal services organization. While in law school, Ms. Whitman clerked in the U.S. Department of Justice, Criminal Division, Economic Crimes Unit, and participated in the U.S. Department of Defense, General Counsel's Office Summer Honors Program, where she provided analysis and counsel on issues relating to ethics and conflicts of interest.

Ms. Whitman is a bay area native who earned her undergraduate degree at Yale College (where she majored in American Studies, studied Russian, and competed for the varsity swimming squad) and her law degree at Georgetown University Law Center. Ms. Whitman is a Commission appointee for the term from 1/22/2013 – 1/21/2016.



Eddie Tejada

Eddie Tejada is a self-described civic technologist who has devoted his career to building technologies to help civic institutions become more transparent, ethical, and efficient. Mr. Tejada recently co-founded OpenOakland, a group of developers, designers, and organizers working to bring innovative solutions to Oakland governance. Serving as a 2012 Code for America fellow in New Orleans, his focus as a fellow was on building tools that encouraged civic participation. His team most recently lead a successful collaboration with the City of New Orleans to develop and launch BlightStatus. Previously, Mr. Tejada co-founded Digress.IT, a paragraph-level commenting system used by local governments and universities around the world. He also lead the development of Regulation Room, a project lead by Cornell University in collaboration with the Department of Transportation, aimed at increasing public participation in federal rule making. Mr. Tejada worked at the Institute for the Future of the Book, a small publishing think-tank working on innovative publishing projects and developed LittleSis.org, a free database detailing the connections between powerful people and organizations.



Mr. Tejada earned his B.A. from Hampshire College with a focus on the digital divide and wrote his senior thesis on power efficient microprocessors. He is a Mayoral appointee for the term from 1/22/2013 - 1/21/2016.

PREVIOUS COMMISSIONERS WHO SERVED IN 2012

Richard Unger

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. 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. Dr. Unger was a Commission appointee for the term from 1/22/10 - 1/21/13 and was Chair of the Commission in 2011 and 2012.

Amy Dunning

Amy Dunning serves as the Regional Director/Chief Administrative Judge of the Western Regional Office of the U.S. Merit Systems Protection Board. She previously 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. 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 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. She is admitted to practice law in California, Illinois, and the District of Columbia. Ms. Dunning was a Mayoral appointee for the term 1/22/10 - 1/21/13.

COMMISSION CHARGE

The Public Ethics Commission is a **seven-member board of Oakland residents** who volunteer their time to participate on the Commission. Three members are appointed by the Mayor and confirmed by the City Council, and 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 do the following:

- 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.

The Commission was created in 1996 with the goal of ensuring "**fairness, openness, honesty and integrity**" in City government and specifically charged with overseeing compliance with the following laws and policies:

- Oakland's Campaign Reform Act (OCRA)
- Conflict of Interest Code
- City Council Code of Conduct
- Sunshine Ordinance
- Limited Public Financing Act
- Lobbyist Registration Act
- 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 salary for Oakland City Council Members and the duty to adjust the salary by the Consumer Price Index annually. The Commission administers compliance programs, educates citizens and City staff on ethics-related issues, and works with City staff to ensure policies are in place and are being followed. 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.

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.

PUBLIC ETHICS COMMISSION RESPONSIBILITIES

Oakland Municipal Code section 2.24.020 enumerates the following functions and duties of the Public Ethics Commission:

- 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.

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

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Current Commissioners

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

Commission Staff

Whitney Barazoto, Executive Director
Lauren Angius, Program Analyst (P/T)

Subscribe for Information

To receive meeting notices and other Commission announcements, please email the Commission at ethicscommission@oaklandnet.com or subscribe on the Commission's Web page at www.oaklandnet.com/pec.

DRAFT

Public Ethics Commission Compliance Framework

The Public Ethics Commission ensures compliance with transparency and open government laws through a comprehensive approach that emphasizes prevention, enforcement and collaboration.

PREVENT

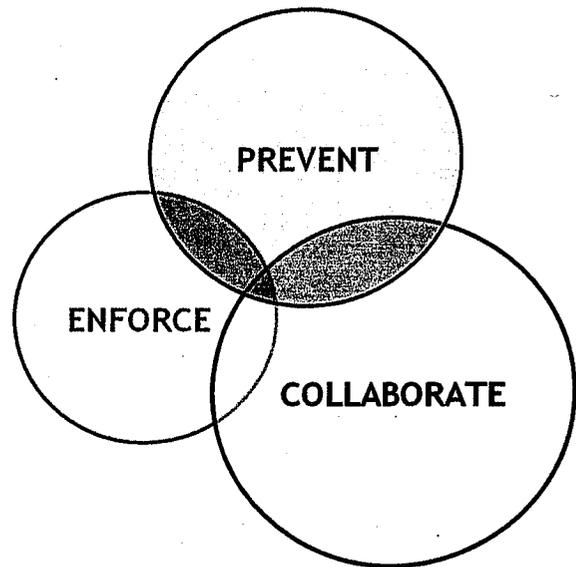
Prevention activities consist of education, outreach, and information to help individuals understand and comply with government integrity laws.

ENFORCE

Enforcement includes investigations, audits, public hearings, subpoenas, fines, and penalties for certain types of violations. The Commission also enforces through alternative enforcement strategies, such as sharing information publicly and referring issues to another enforcement entity where appropriate.

COLLABORATE

Collaboration recognizes that lasting results in transparency and open government are achieved not through education and enforcement alone, but through a comprehensive strategy that aligns all points in City government – including clear policies and process, effective management and provision of staff resources, technology and infrastructure that support the process, and an understanding of citizen expectations. A collaborative approach includes engagement, innovation, and partnership to leverage the efforts of City and community partners working on similar or overlapping initiatives and facilitate changes in systems and culture to achieve compliance.



**City of Oakland
Office of the City Auditor**

March 21, 2013

**Non-Interference in Administrative Affairs
Performance Audit
FY 2009-10 – FY 2011-12**

The audit found that two Oakland Councilmembers violated law by exerting inappropriate influence in City contracting and operations.



City Auditor
Courtney A. Ruby, CPA, CFE

PERFORMANCE AUDIT



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CITY OF OAKLAND



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Office of the City Auditor
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March 21, 2013

OFFICE OF THE MAYOR
HONORABLE CITY COUNCIL
CITY ADMINISTRATOR
CITIZENS OF OAKLAND
OAKLAND, CALIFORNIA

RE: Non-Interference in Administrative Affairs Performance Audit

Dear Mayor Quan, President Kernighan, Members of the City Council, City Administrator Santana, and Oakland Citizens:

Since 1931, the City of Oakland's Charter has included a bold provision to ensure the appropriate separation of duties and functions and to shield City staff from City Councilmembers' political interference and demands for special treatment.

This provision, Section 218: Non-interference in Administrative Affairs (Section 218), is the underpinning of an ethical structure designed to afford every citizen, employee, and business the opportunity to live, work, and transact business with confidence that no inappropriate influence is being exerted. However, if Section 218 is not enforced— it is rendered ineffective.

For many years there have been signs that problems exist with Councilmember interference, including anonymous reports to the City's Fraud, Waste and Abuse Prevention hotline, as well as the results of Oakland's 2010 and 2011 Ethical Climate Survey. In February 2012, the Administration clearly demonstrated its commitment to enforce Section 218 when it reviewed a Councilmember's involvement in the Rainbow Teen Center.

Given the significance of the allegations that City policies, ordinances and State laws were violated by a Councilmember involved with the Rainbow Teen Center, my Office commenced an audit in April of 2012 to determine whether or not violations of Section 218 occurred. Focused on the entirety of the City Council, the audit examined reported violations occurring in 2009 through 2012, including but not limited to, the Rainbow Teen Center.

After interviewing more than 40 employees, reviewing 27 hotline reports, and examining thousands of Councilmembers' and Council Aides' emails and select phone records, this audit was able to substantiate 14 instances of Councilmembers or their Aides violating the City Charter, Section 218, Non-Interference in Administrative Affairs.

These violations occurred in the following areas:

- One Councilmember interfering with two City recreation centers
- Two Councilmembers interfering with the Oakland Army Base Building 6 demolition and remediation contracting process
- One Councilmember threatening a City employee's work assignment
- One Council Aide improperly requesting reductions in parking fees and fines

This audit was not designed to account for all occurrences of interference nor did it catch all instances of interference during the audit's scope. Instead, it was aimed at confirming reported instances of interference that had occurred while also providing recommendations that will help the Administration and City Council mitigate future violations.

Councilmembers involved in the audit's substantiated findings were offered, as a matter of courtesy, a briefing of the findings and the opportunity to provide a written response for inclusion in the audit. One Councilmember attended the briefing and provided a response for inclusion in the audit report; one Councilmember declined to attend the briefing.

This audit does not make any legal determinations; such matters will be properly referred to the appropriate law enforcement authorities. However, the City Charter is clear on the seriousness of Councilmember interference, stating that "violation of the provisions of this section by a member of the Council shall be a misdemeanor, conviction of which shall immediately forfeit the office of the convicted member." Conviction can only be determined in a court of law. What, if any, consequences related to these violations have yet to be determined by the appropriate parties.

Office of the Mayor, Honorable City Council, City Administrator and Oakland Citizens
Non-Interference in Administrative Affairs Performance Audit

March 21, 2013

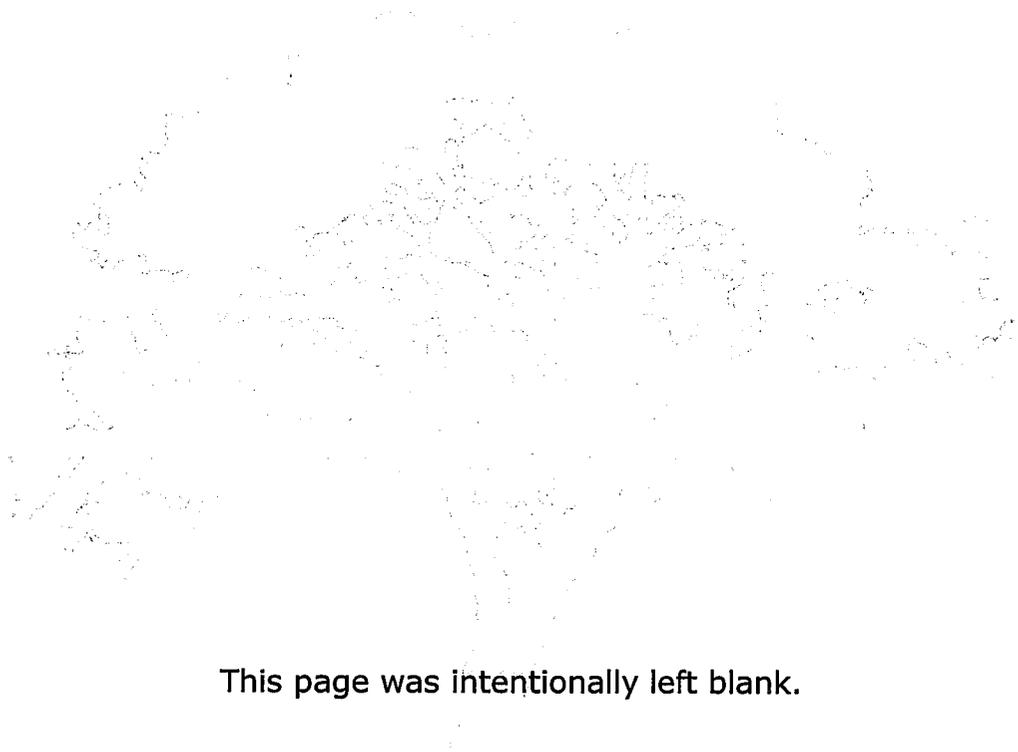
Page 3 of 3

Hopefully, the information contained in this audit causes all City leaders to reflect upon how we may bolster the ethical structure of Oakland's government and ensure the past is not repeated. It is my hope that as a result of this audit, the Administration and the City Council engage in a powerful dialogue regarding their respective roles and how to best work together to make Oakland thrive. Finally, I hope the City Council uses this opportunity to ensure that the conduct of each member is representative of the body as a whole.

Respectfully submitted,

A handwritten signature in black ink that reads "Courtney A. Ruby". The signature is written in a cursive, flowing style.

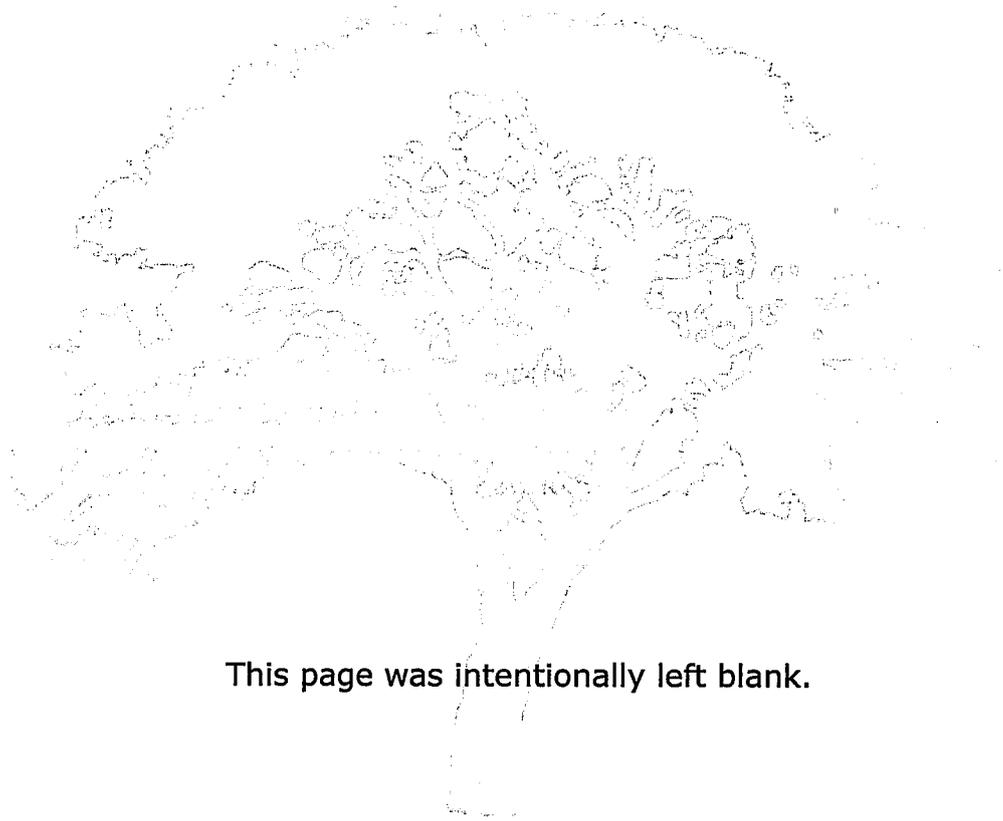
COURTNEY A. RUBY, CPA, CFE
City Auditor



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REPORT SUMMARY

NON-INTERFERENCE IN ADMINISTRATIVE AFFAIRS PERFORMANCE AUDIT: FY 2009-10 through FY 2011-12

OVERVIEW

The audit found two Oakland Councilmembers violated the law by exerting inappropriate influence in City contracting and operations. There were 14 instances of Councilmembers or their Aides violating Oakland City Charter, Section 218: Non-Interference in Administrative Affairs.

Objectives

The Office of the City Auditor conducted a performance audit to determine whether or not there have been violations of City Charter Section 218, Non-Interference in Administrative Affairs between fiscal year 2009-10 and fiscal year 2011-12.

Key Findings

The findings from the audit include:

- Finding 1.1: The District 6 Councilmember interfered in the management and renovations for two Oakland recreation centers: the Rainbow Teen Center (also known at the Digital Arts and Culinary Academy) and the Arroyo Viejo Recreation Center (Arroyo Viejo Center). This included selecting contractors, negotiating and establishing agreement terms for contracts, directing staff to process contracts, setting project deadlines, and hiring staff.
- Finding 1.2: Councilmembers from District 6 and District 7 interfered in Redevelopment's contracting process for an Oakland Army Base demolition and remediation contract (Building 6 contract) worth approximately two million dollars.
- Finding 1.3: The District 6 Councilmember interfered in administrative affairs by threatening to remove City staff from a Redevelopment project in the Councilmember's district.
- Finding 1.4: One Council Aide from District 7 interfered in administrative affairs by directing Parking to fix two of the Council Aide's personal parking tickets.
- Finding 2.1: There is a general culture of interference within the City. The audit found that the culture of interference appears to be felt across many City departments and is perceived to come from multiple Councilmembers.
- Finding 2.2: One Council Aide from District 7 has continuously acted abusively and unprofessionally towards staff working on the City-County Neighborhood Initiative (CCNI) in Sobrante Park. The Council Aide's actions appears to have created an environment that impacts City staff's (as well as County and community partners) ability to perform their jobs.

Key Recommendations

To address the audit's findings, the report includes 22 recommendations. Some of the key recommendations are:

Councilmembers and their Aides should:

- Not be involved in administrative actions such as negotiating, establishing terms, or drafting contracts or grants on behalf of the City
- Complete annual training on Section 218, Non-Interference in Administrative Affairs and should annually certify that he or she has attended the training and agrees to uphold Section 218

Councilmembers should:

- Develop procedures to enforce the Council's Code of Conduct

The Administration should:

- Ensure that its staff know that they should not take direction from any Councilmember and encourage staff to report potential interference
- Establish clear protocols for how staff should prioritize Councilmembers' requests, how Councilmembers' opinions should be incorporated into staff's work, and how staff should work with Councilmembers and their Aides on community projects
- Not tolerate abusive treatment of its staff by Councilmembers or their Aides. The Administration should continue to educate its staff that they should report anytime a Councilmember inappropriately yells at, threatens, or bullies staff

Introduction

Since at least 1931, the City of Oakland's (City) Charter has included a bold provision to ensure the appropriate separation of duties and functions within the City and to shield City staff from political interference and demands for special treatment from City Council members. Charter Section 218, Non-Interference in Administrative Affairs (Section 218) seeks to allow the City's professional staff to do their work protected from political influence, favoritism, and patronage. Section 218 helps to establish a more transparent and ethical government structure affording citizens, employees, and businesses the opportunity to live, work, and transact business with confidence that no inappropriate influence is being exerted in the affairs of the City. However, if Section 218 is not enforced – it renders its intent ineffective.

Under Section 218, Councilmembers are not allowed to interfere in administrative affairs such as contracting, hiring, appointing, or firing City employees, or giving orders to City employees who are under the City Administrator's jurisdiction. A violation of the provisions of Section 218 is a misdemeanor, with conviction resulting in the immediate forfeiture of the office¹. This audit does not make any legal determinations; such matters will be properly referred to the appropriate law enforcement authorities.

The purpose of this performance audit was to evaluate whether Section 218 of the City Charter was violated over the three-year period reviewed and to make recommendations that will help the City Administration (Administration) and City Council mitigate the occurrence of future violations. While the role of a Councilmember includes advocating for Oakland residents, the appearance of, or actual occurrence of interference directly undermines the effectiveness of the City Council, as a whole, to govern, as well as the City Administration (Administration) to conduct City operations.

In February 2012, the Administration clearly demonstrated its commitment to enforce Section 218 when it reviewed a Councilmember's involvement in the Rainbow Recreation Teen Center. Given the significance of the allegations that City policies, ordinances, and State law were possibly violated and the effect of allowing such violations to go unchecked if true, the City Auditor's Office (Office) initiated a performance audit of non-interference in administrative affairs. Prior to this, the Auditor's Office had also regularly heard concerns regarding Councilmember interference. Additionally, the City Auditor's annual ethical climate survey of employees highlighted that interference was an ongoing concern for employees. Without the commitment of the Administration to enforce Section 218, an audit would have been a futile exercise for the Office and City employees.

¹ According to Black's Law Dictionary, a conviction is the verdict that results when a court of law finds a defendant guilty of a crime.

Background

Section 218 of the City Charter is far reaching and demonstrates the City's commitment to the tenets of good government: transparency, integrity, and accountability. Section 218 helped solidify the City's separation of powers and the Administration's responsibility to shield employees from political interference. Overall, Oakland's City Council is responsible for making policies and appropriating funds, while the Administration is responsible for carrying out City policies and running the day-to-day operations.

Despite this mandated protection against political influence, there have been many signs that problems exist with City Council interference. In the past two years, the Office has received numerous, anonymous reports about this issue through the City's Fraud, Waste + Abuse (FW+A) hotline. Both the 2010 and the 2011 Ethical Climate Surveys found that City Council interference is one of Oakland's most troubled ethical areas. In 2011 during budget deliberations, the Office sent the City Council a memo warning them of a potential interference violation should they continue to include specific staffing assignments for the Revenue Division in their discussions. In February 2012, the Administration and the media exposed allegations that one Councilmember had interfered with the contracts, staffing, and funding of a City recreation center.

In response to this most recent allegation of Councilmember interference, the City Attorney issued a memo to all City staff regarding non-interference in administrative affairs and prohibitions set forth in Section 218. On the same day, the City Administrator reminded all City employees of Administrative Instruction (AI) 596, which governs the Code of Conduct for all non-sworn employees. AI 596 includes a summary of Section 218, stating that it is inappropriate for Councilmembers to give staff direction and that staff shall not take direction from Councilmembers. AI 596 also states that an employee should report violations to his or her immediate supervisor, Department manager, Department head, or City Administrator, as appropriate.

Since 2006, Mayors, City Administrators, and City Attorneys have released a total of 12 memos that provide guidance on Section 218 and further clarify the City Council's appropriate roles and responsibilities as defined by the City Charter. See Appendix A for a summary of these memos.

Under Section 218, interference occurs when a Councilmember orders, directs, demands, or pressures City staff. According to the City Attorney, the prohibition established in Section 218 applies to both Councilmembers and their Council Aides. Also, it is the act of ordering, coercing, influencing, or directing City staff that is considered interference under Section 218. Section 218 does not require that the ordering, coercing, influencing, or directing is actually successful. In addition to Section 218, Section 207 of the Oakland City Charter specifically states that the City Council shall have "no administrative powers."²

In consultation with the City Attorney's Office in April 2011, the Office of the City Auditor clarified that:

² Section 207 states that the City Council is the governing body of the City with all powers of legislation in municipal affairs. Section 504 states that the City Administrator is responsible for the day-to-day administrative and fiscal operations of the City and that the City Administrator directs City agencies and departments to ensure the goals and policy directives of the Mayor and City Council are implemented.

Interference includes, but is not limited, to when a Councilmember or Council Aide orders or directs a City staff person:

- To hire, appoint, remove, fire, transfer, or promote an employee
- To rate, choose, or select a person, business, or nonprofit organization for a contract with the City
- To give work to a person, business, or nonprofit organization before a contract is in place
- To issue or deny a permit
- To dismiss a ticket, fine, or fee
- To perform work outside an employee's normal duties
- To prioritize specific jobs and tasks over others
- To meet the Councilmember's deadline to complete a task, job, or response

In a memo released by City Attorney Parker on March 22, 2012, the following statements were issued to provide clarity on what are not permissible Councilmember interactions with City staff under Section 218:

- A City Councilmember may 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 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 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

Objectives, Scope

& Methodology

Audit Scope & Objectives

The scope of this performance audit focused on fiscal year 2009-10 through fiscal year 2011-12. To ensure this audit did not focus on any one incident of City Council interference or any one Councilmember, the audit established a broad audit scope that included a review of all Councilmembers serving during those three years. Additionally, where appropriate, the audit expanded the timeline to 2008 to ensure that the data under evaluation was viewed in full and proper context.

The objective of the audit was to determine if, within the scope, there have been violations of City Charter Section 218, Non-Interference in Administrative Affairs.

This audit will conclude on whether or not Councilmembers and their Aides complied with Section 218. This audit is not an investigation of any one incident of City Council interference. It is, however, a tool to determine the extent of Section 218 violations and to give recommendations that will help the Administration and City Council mitigate the occurrence of violations.

Audit Methodology

To accomplish this objective, the audit employed a variety of evaluative techniques, interviews, research, and other methods to obtain appropriate data, evidence, and contextual information to support this work.

To identify and assess potential violations of Section 218, interference in administrative affairs, the Office:

- Outreached to all City employees to anonymously report instances of potential interference on the FW+A hotline; 27 hotline tips were received
- Interviewed more than 40 individuals which included interviewing specific employees in areas likely to have instances of interference as well as conducting interviews with employees who contacted the Office regarding their interactions with Councilmembers
- Evaluated more than 67 hotline and interview tips which included researching public records, issuing requests for information from various Departments, and interviewing individuals involved.
- Reviewed all Councilmembers' and all Council Aides' email accounts for evidence of interference and to corroborate reports of interference. Tens of thousands of emails were reviewed.
- Reviewed phone records when deemed appropriate
- Worked with the City Attorney's Office to obtain a clear understanding of Charter Section 218

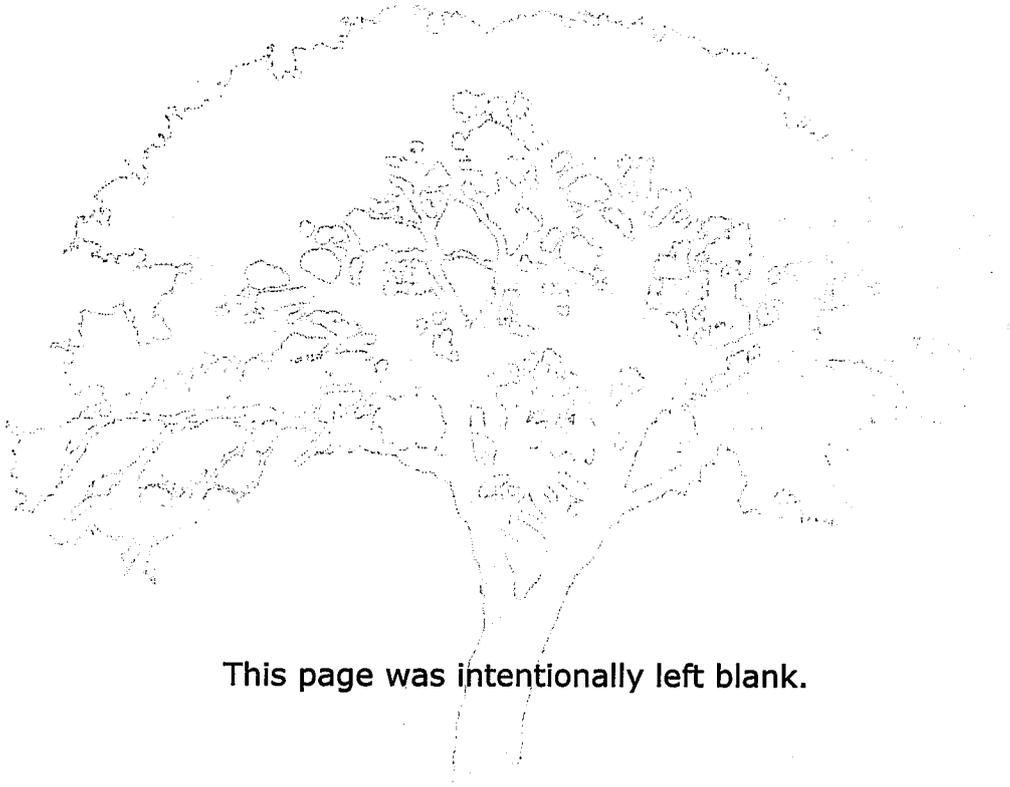
While the audit aimed to identify instances of interference that had occurred during the audit scope, the audit was not designed to account for all occurrences of interference nor did it catch all instances of interference. Given that interference between a Councilmember and a City employee is more likely to occur as a verbal interaction, unless testimony and corroborating evidence could be obtained, incidents were not concluded to be interference. The audit found that many instances of perceived interference were reported; however, upon examination, it was determined that insufficient evidence existed to corroborate the allegation, the incident did not constitute interference as defined in the City Charter, or the potential interference was mitigated through the Administration's adoption or ratification of the Councilmember's involvement.

The Office encouraged City employees to bring forth tips through the City Auditor's confidential FW+A hotline; the confidentiality of all whistleblower reporters is protected under local and state whistleblower protection laws. Even with these considerations, certain staff members were not willing to talk with the Office despite outreach efforts. Some, including staff in senior management positions, declined to speak with the Office because of their perception that there was too much risk, including fear of Councilmembers' retaliation.

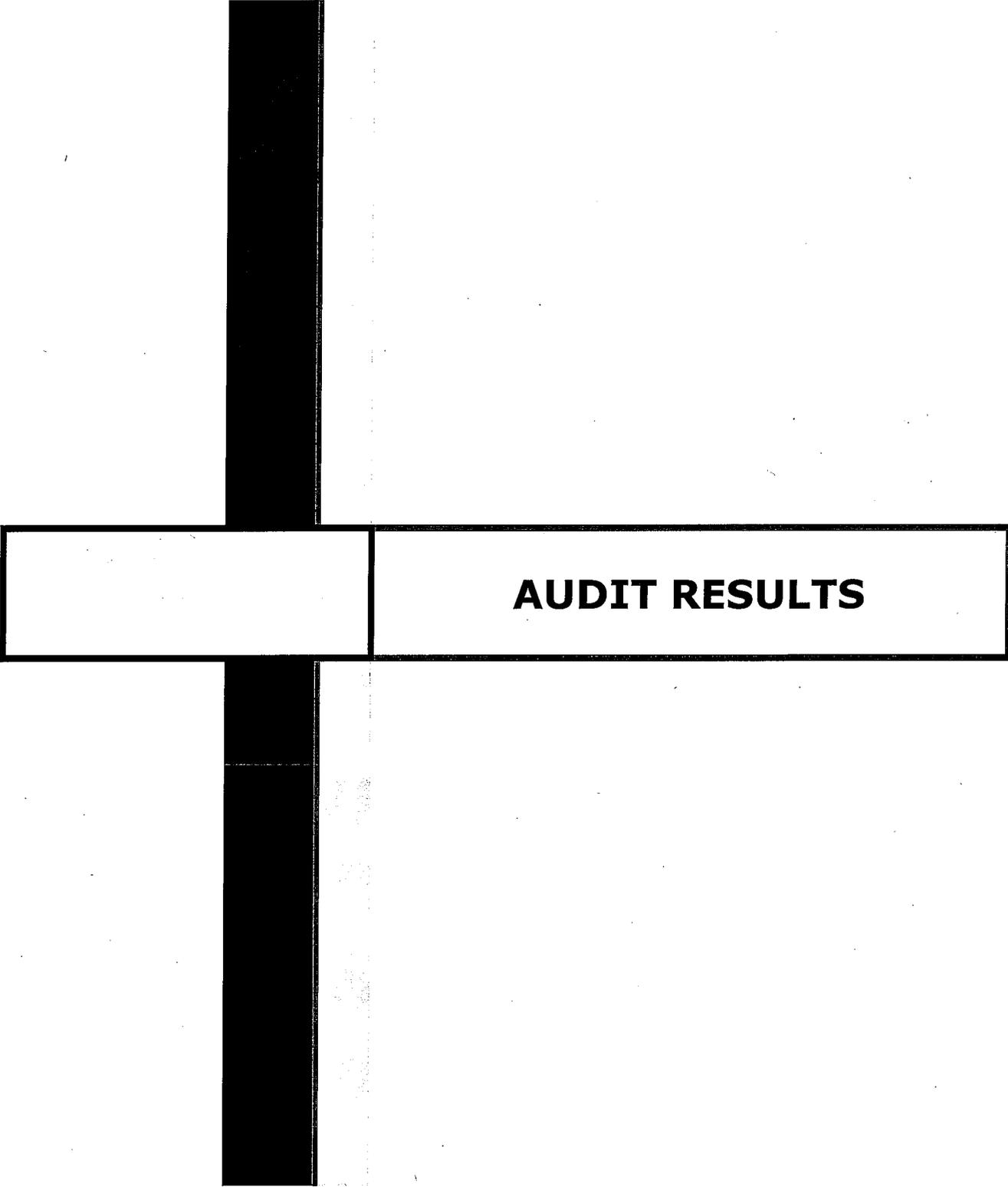
Councilmembers involved in the audit's substantiated findings were offered, as a matter of courtesy, a briefing of the findings and the opportunity to provide a written response for inclusion in the audit. One Councilmember attended the briefing and provided a response for inclusion in the audit report; one Councilmember declined to attend the briefing.

This audit was conducted under the authority of the City Auditor as described in Section 403 of the City Charter. The Charter states that the City Auditor shall conduct surveys, reviews, and audits as the Auditor deems to be in the best public interest.

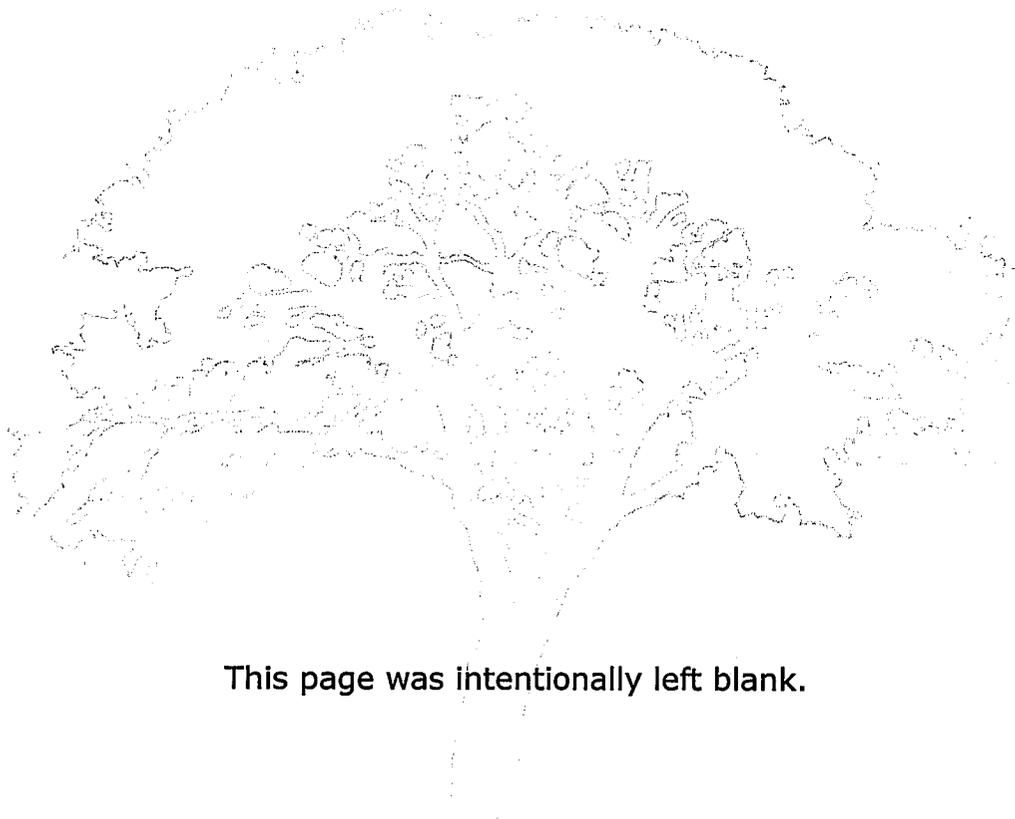
The Office conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). These standards require that the Office plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the audit's findings and conclusions based on the audit's objectives. The Office believes that the evidence obtained provides a reasonable basis for the audit's findings and conclusions based on the audit objectives.



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AUDIT RESULTS



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CHAPTER 1

INTERFERENCE BY COUNCILMEMBERS

While more than 67 tips and interviews were evaluated over the course of nine months, the audit was able to substantiate 14 instances of interference by Councilmembers or their Aides. As stated previously, many instances of perceived interference were reported; however, upon closer examination it was determined that:

- Insufficient evidence existed to corroborate the allegation
- The incident did not constitute interference as defined in the City Charter
- Any potential interference was mitigated through the Administration's adoption or ratification of the Councilmember's involvement

The substantiated instances of Councilmembers or their Aides violating Section 218³ occurred in the following areas:

- One Councilmember interfered with two City recreation centers
- Two Councilmembers interfered with the Oakland Army Base demolition and remediation contracting process for Building 6
- One Councilmember threatened a City employee's work assignment
- One Council Aide directed Parking to fix the Council Aide's personal tickets

Finding 1.1

Interference in Recreation Centers

The District 6 Councilmember was inappropriately involved in the management and renovations for two Oakland recreation centers: the Rainbow Teen Center (also known as the Digital Arts and Culinary Academy) and the Arroyo Viejo Recreation Center (Arroyo Viejo Center). Recreation centers are City-owned buildings and are managed by administrative staff in Oakland's Office of Parks and Recreation (Parks and Recreation)³. The Councilmember's actions interfered in administrative affairs. Section 218 states that Councilmembers:

- May only make informational inquiries of administrative staff
- Shall not give orders to any administrative staff
- Shall not coerce or influence administrative staff with respect to any contract, purchase of supplies, or any other administrative action
- Shall not be involved in the appointment, hiring, or firing of administrative staff

Rainbow Teen Center

The District 6 Councilmember was involved in three instances of selecting contractors to provide services for the Rainbow Teen Center. In two of these instances, the Councilmember also negotiated the agreements and established the agreement terms. The Councilmember then directed administrative staff in City departments to process these contracts. According to staff, they processed the paperwork as instructed by the Councilmember.

³ Parks and Recreation also contracts with some local non-profits to manage services at recreation centers.

The Councilmember also interfered in administrative affairs when she pressured staff to get a vendor paid quickly, set deadlines for City staff, and hired staff to work at the Rainbow Teen Center.

According to Charter Section 207, the Councilmembers have no administrative powers. Additionally, Charter Section 504(g) states that the City Administrator shall have the power and responsibility for preparing plans, specifications, and contracts for work which the City Council may order. Finally, Section 218 states that Councilmembers shall not coerce or influence administrative staff with respect to any contract, purchase of supplies, or any other administrative action.

As shown in the instances below, the Councilmember of District 6 represented the City in the contracting processes and interfered by influencing administrative staff in two City departments regarding three different City contracts. The Councilmember also interfered by setting deadlines for administrative staff to complete the Councilmember's assignments. Further, negotiating agreements on behalf of the City violated Charter Sections 207 and 504(g), that Councilmembers have no administrative powers.

- In February 2010, the Councilmember established the project scope and agreement terms with a contractor, Pulte Homes, for the Rainbow Teen Center. According to Redevelopment, while they processed the grant agreement for Pulte, they were not involved in establishing the terms of the agreement. This is further corroborated with an email the Councilmember sent informing the Director of the Community and Economic Development Agency about the project, her collaboration with Pulte, and timeline constraints. In March 2010, the Councilmember requested that a staff member from Redevelopment execute a grant agreement between the City and Pulte to reimburse the contractor for its expenses related to the Rainbow Teen Center. The Councilmember also appeared to be in charge of the project timeline. For example, she told Redevelopment staff that the grant agreement should be completed quickly because Pulte was starting work the following day.
- In April 2010, the Councilmember emailed the Director of Parks and Recreation that the Councilmember was going to work with a local non-profit, 100 Black Men of the Bay Area, to provide management services at the Rainbow Teen Center. The Councilmember drafted the agreement between 100 Black Men and the City and told the Director of Parks and Recreation to finalize the agreement within two weeks.
- In June 2010, the Councilmember notified Parks and Recreation that a different non-profit, Leadership Excellence, was going to manage operations at the Rainbow Teen Center rather than 100 Black Men. Parks and Recreation complied with the Councilmember's adjustment and forwarded the agreement to Leadership Excellence to sign. The Councilmember then emailed Leadership Excellence and told them not to sign the contract until she had reviewed it. After that, the City never received a response from Leadership Excellence.

The District 6 Councilmember also interfered in administrative affairs when she ordered sound equipment (supplies) for the Rainbow Teen Center and when she pressured Redevelopment staff to pay the vendor quickly, which required staff

to get three bids retroactively. Under Section 218, a Councilmember shall not attempt to coerce or influence the City Administrator or other such officers with respect to any contract, including the purchase of any supplies. The District 6 Councilmember also signed payment documents to release the funds. Further, signing payment documents on behalf of Redevelopment violated Section 207.

The audit confirmed that the Councilmember similarly interfered in purchasing playground equipment in 2006 for both the Rainbow Teen Center and the Arroyo Viejo Center. The Councilmember's actions required City staff to obtain bids for the Councilmember's purchases retroactively.

The District 6 Councilmember also interfered in administrative affairs by hiring nine individuals to work within a City department, Parks and Recreation. The individuals served as the Recreation Program Director, Recreation Specialists, and a Recreation Leader, all of which are union classified positions. According to Oakland Municipal Ordinance, 2.29.080, the Department of Parks and Recreation is responsible for hiring all staff that work in its recreation centers. While Councilmembers may hire Council Aides, and the Councilmember hired these individuals as Council Aides, only the Department of Parks and Recreation has the authority to hire staff for its facilities and programs. According to Parks and Recreation, the Department was not involved with the hiring of the individuals originally hired to work in the Rainbow Teen Center.

Further, the Councilmember had her hires start working in the Rainbow Teen Center before fingerprinting, drug testing, and background checks had been completed, in some cases not until six weeks after the individual began working in the recreation center. As a result of the Councilmember hiring individuals into department positions, the City was out of compliance with State law that requires anyone having direct contact with minors to have submitted fingerprints for a criminal background check as well as City policy that requires clean drug and tuberculosis tests prior to the first day of employment.

Arroyo Viejo Recreation Center

In two incidents between 2008 and 2009, the District 6 Councilmember interfered with the Arroyo Viejo Recreation Center recording studio.

In November 2008, the District 6 Councilmember left a voicemail for the staff member managing the construction and directed him to stop all construction activities. The staff member complied and replied that he would wait for further direction from the Councilmember.

In March 2009, construction of the recording studio was in progress again. In an email to the District 6 Councilmember, the staff member requested further direction on two items and stated that he needed the information "in order to complete the construction by your deadline of April 8th as you wished."

In addition to these two instances of interference by the Councilmember, it appears that the staff member also likely received direction regarding paint colors, curtains, equipment lists, project plans, and floor plans from the Councilmember during this time period.

Both of these instances violate section 207 of the Charter which states that Councilmembers have no administrative powers. Additionally, Charter Section 504(g) states that the City Administrator shall have the power and responsibility for preparing plans, specifications, and contracts for work that the City Council may order. Finally, according to Section 218, Councilmembers shall not give any orders to any subordinate of the City under the jurisdiction of the City Administrator, either publicly or privately.

Conclusion

Starting in 2008, the District 6 Councilmember interfered in the renovation and management of two City recreation centers. As a result, the Councilmember's actions violated Sections of the City Charter as well as State law regarding background checks for staff working with minors, and circumvented City policies regarding hiring.

Recommendations

- Councilmembers and their Aides should comply with Section 218 of the City Charter, including not directing or ordering administrative staff to meet deadlines set by the Councilmembers. Additionally, Councilmember requests should never result in non-compliance with laws or City policy.
- The Administration should ensure that its staff, especially its Department directors, Economic Development staff, and Accounts Payable staff, know that Councilmembers do not have the power to give them orders. Further, Councilmember's requests should never result in non-compliance with laws or the circumvention of City policy.
- The Administration should regularly remind its staff to report any directions or requests by Councilmembers that have violated or appear to violate any law or City policy, including directions or requests to retroactively process the paperwork for staff hires.
- Councilmembers and their Aides should comply with Section 218 of the City Charter, including not coercing or influencing staff with respect to any contract or purchase of supplies.
- Councilmembers and their Aides should comply with Sections 207 and 504(g) by not conducting any administrative actions. For example, Councilmembers should not be involved in negotiating, establishing terms, or drafting contracts or grants on behalf of the City. Nor should Councilmembers ever sign to release department funds for expenditures.
- Councilmembers should comply with Section 218 of the City Charter, including not hiring individuals to work in City departments or programs.
- Councilmembers and their Aides should complete annual training on Section 218, Non-Interference in Administrative Affairs and should annually certify that he or she has attended the training and agrees to uphold Section 218.

Finding 1.2

Interference in the Oakland Army Base

Both Councilmembers from District 6 and District 7 were involved in Redevelopment's contracting process for an Oakland Army Base demolition and remediation contract worth approximately two million dollars (Building 6 contract). The Districts 6 and 7 Councilmembers' involvement appears to show favoritism to one company, Turner Construction Group (Turner). The Councilmembers' actions interfered in administrative affairs by coercing or influencing staff regarding the contract. Section 218 says that Councilmembers:

- May only make informational inquiries of administrative staff
- Shall not give orders to any administrative staff
- Shall not coerce or influence administrative staff with respect to any contract, purchase of supplies, or any other administrative action

According to Redevelopment, this contracting process was highly irregular and "messy." It is the audit's conclusion that the Councilmembers' inappropriate involvement and interference in the contracting process appears to have significantly contributed to this highly irregular process. Under the standard contracting process for construction contracts exceeding \$50,000, the Administration should have conducted a competitive bid process. However, Redevelopment staff incorrectly began working with Top Grade Construction (Top Grade) for a sole source contract⁴. This occurred because, according to Redevelopment, in an effort to speed up the remediation work on the Army Base, Redevelopment attempted to contract with Top Grade Construction who was a contractor of the master developer of the project.

Regardless of the staff's misinterpretation about whether they could sole source a contract for the demolition work, as shown in Exhibit 1, there was interference in the contracting process when the District 6 Councilmember told staff that their recommendation to work with Top Grade needed to be reworked and that the Councilmember was negotiating a portion of the contract with Turner. There was also interference when the Districts 6 and 7 Councilmembers directed staff to work with Turner to establish a bid proposal.

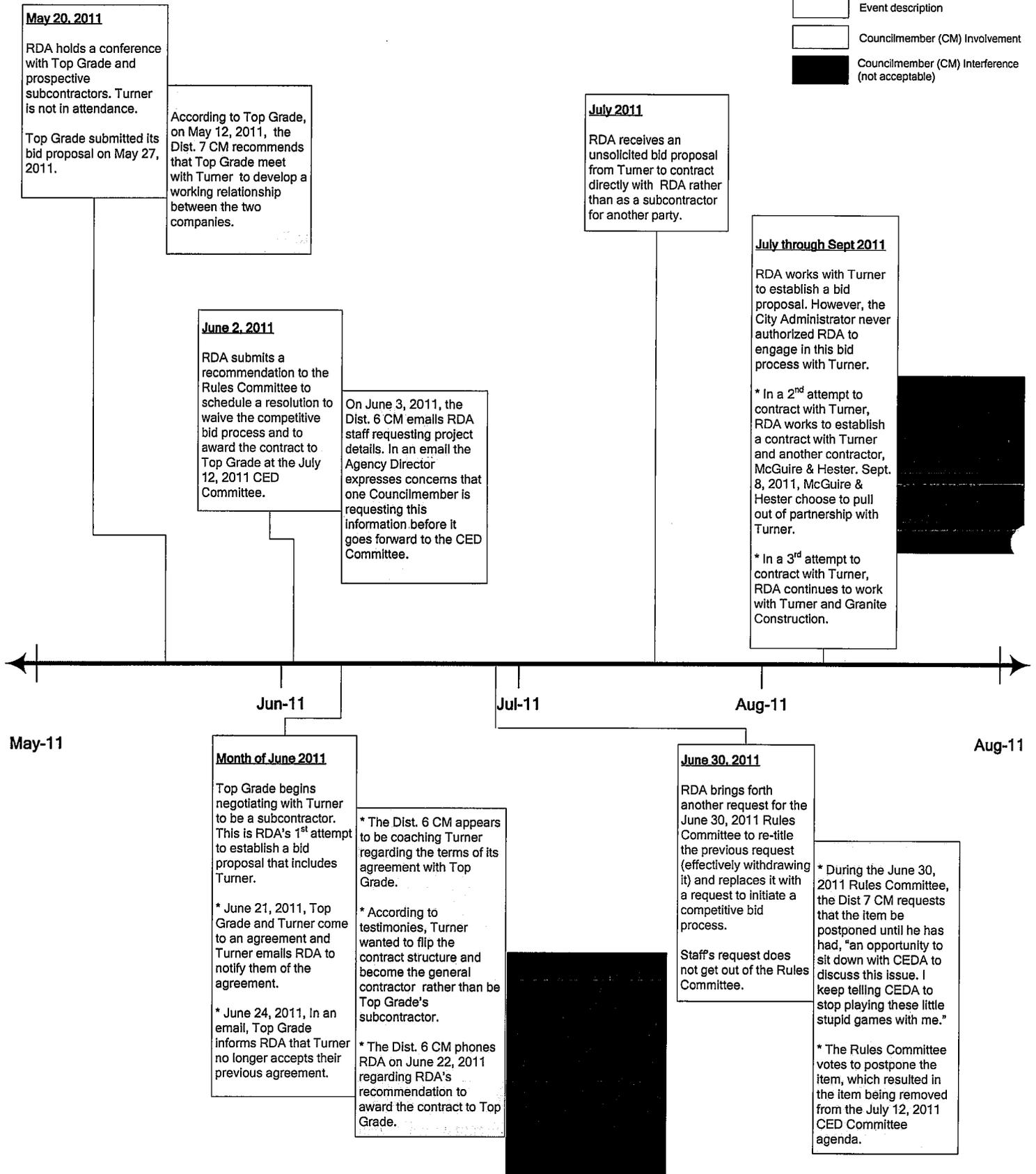
The following exhibit shows the events of the Oakland Army Base contracting process, where Councilmembers were involved (yellow boxes), and where Councilmember interference occurred (red boxes).

⁴ A sole source contract is approved by City Council in the following circumstances: when the work involved requires specialized services, when bidding the work is impracticable, unavailing or impossible, or in other cases approved by the City Council after determining that it is in the best interest of the City.

EXHIBIT 1: Events of Oakland Army Base Building 6 Demolition and Remediation Project

Legends:

- Event description
- Councilmember (CM) Involvement
- Councilmember (CM) Interference (not acceptable)



September 15, 2011

The Dist. 6 & 7 CMs bring forth recommendation to Rules Committee to add LBE/SLBE requirements to the Building 6 contract, specifically, that prime contractors must include 33% Oakland residents and only certified LBE / SLBE firms.

Between September and November the City Attorney vets the legality of the proposal.

Legends:



Event description



Councilmember (CM) Involvement



Councilmember (CM) Interference (not acceptable)

September 19, 2011

RDA sends a letter to Turner requesting Turner submit its bid proposal by October 3, 2011. This action was never authorized by the Administrator.

According to RDA, Turner expressed to RDA that they were owed, that this contract should be theirs, they had the Dist. 6 & 7 CMs on their side, and that they were here for a fight.

December 6, 2011

Council votes and passes the resolution proposed by the Dist. 6 & 7 CMs to add additional LBE / SLBE requirements.

September 26, 2011

Turner submits its bid proposal to RDA.

September 27, 2011

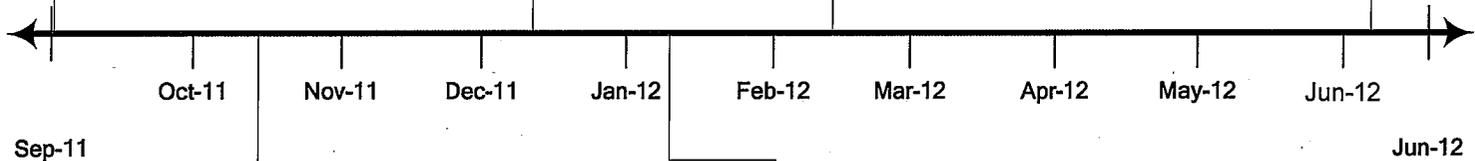
The Administrator emails RDA and questions why staff sent the September 19, 2011 letter to Turner and why RDA continues to work with Turner.

February 14, 2012

RDA rated bids and names Downrite Corporation as the lowest responsible bidder. Out of six bids submitted, only three bids met the amended contract requirements (Downrite Corporation, JH Fitzmaurice, and Turner).

June 19, 2012

Council votes 7-1 (Councilmember Brunner abstained) to adopt the contract with Downrite.



On October 11, 2011, the Dist. 6 CM and others, including Turner and supporters of Turner, speak to the CED Committee in support of the CM's proposed contract amendment.

October 21, 2011

RDA sends Turner a letter stating that RDA has reviewed the bid and finds that the information provided did not contain sufficient detail to address the project. Further, the City will be putting the project out for competitive bid.

January 11, 2012

RDA holds a pre-bid conference for the contract.

Bids are due on January 26, 2012.

As Exhibit 1 shows in the red boxes, the Councilmembers from Districts 6 and 7 interfered in Redevelopment's contract process in the following two instances:

- In June 2011, the District 6 Councilmember told staff that their recommendation to award the contract to Top Grade needed to be reworked and that the Councilmember was negotiating a portion of the contract with Turner
- In July through September 2011, according to Redevelopment, they received direction from the District 6 and 7 Councilmembers to work with Turner to establish a bid proposal

The Councilmembers from District 6 and District 7 were also consistently involved in Redevelopment's contract process for the Oakland Army Base Building 6 demolition and remediation contract (see yellow boxes in Exhibit 1). While this involvement does not cross the line as interference, it does help illustrate how staff were impacted by the Councilmembers' actions. Further, both the Councilmembers' involvement and interference in the contracting process appear to inappropriately favor Turner.

Recommendations

- Councilmembers and their Aides should comply with Section 218 of the City Charter, including not directing or pressuring staff to remove staff recommendations from City Council or Committee meeting agendas.
- The City Administrator should further educate staff that Councilmembers can not stop staff from bringing their professional recommendations forward and that staff should immediately report when a Councilmember directs, pressures, or demands that staff should not submit their recommendation or that staff should remove a recommendation from the agenda.

Finding 1.3

Interference with One Staff's Work Assignment

The District 6 Councilmember interfered in administrative affairs by threatening to remove City staff from a redevelopment project in the Councilmember's district. According to Section 218, Councilmembers may not be part of the hiring, placement, or firing of City staff.

While staff from Redevelopment were meeting with the District 6 Councilmember regarding a project, the Councilmember threatened to remove one of the administrative staff from the project. According to three Redevelopment staff members, the Councilmember did not like one staff member's proposal, and during the course of the meeting, threatened to remove that staff member from the project. This threat was made in front of the staff member's supervisor. The staff member stated that they felt their job was threatened by the Councilmember.

Recommendations

- Councilmembers and their Aides should comply with Section 218 of the City Charter, including never threatening to fire or remove administrative staff from their positions or an assignment.
- The Administrator should continue to remind all levels of administrative staff that Councilmembers cannot hire, fire, or remove staff from a project and that any threats of such should be reported immediately.

Finding 1.4

Interference with Parking Fines

In January 2012, one Council Aide from District 7 interfered in administrative affairs by directing Parking to fix two of the Aide's personal parking tickets. According to Section 218, Councilmembers and their Aides shall not be a part of administrative actions such as dismissing a ticket, fine or fee.

According to Parking, the Council Aide tried to use the Aide's position in attempt to get the tickets dismissed, first by intimidating the parking enforcement officer and then with Parking management. According to Parking, the Council Aide directed Parking to fix the tickets. The Council Aide further acted inappropriately toward the parking enforcement officer who issued the ticket, including using profanity and trying to slap the ticket out of the officer's hand.

Recommendations

- Councilmembers and their Aides should comply with Section 218 of the City Charter, including never attempting to have parking staff or parking enforcement officers dismiss or reduce the amount of the Councilmember's or Council Aide's personal (i.e., non-work related) ticket.
- The Administration should make it clear to all parking staff and parking enforcement officers, as well as all staff involved with processing or managing other types of fines and fees, that staff should not reduce or dismiss personal (i.e., non-work related) fines or fees at a Councilmember's or Council Aide's request. Staff should always refer Councilmembers and Council Aides to the appropriate process to contest or amend a fine or fee.

RECOMMENDATIONS: Chapter 1

We recommend that:	
Recommendation #1	Councilmembers and their Aides should comply with Section 218 of the City Charter, including not directing or ordering administrative staff to meet deadlines set by the Councilmembers. Additionally, Councilmember requests should never result in non-compliance with laws or City policy.
Recommendation #2	The Administration should ensure that its staff, especially its Department directors, Economic Development staff, and Accounts Payable staff, know that Councilmembers do not have the power to give them orders. Further, Councilmember's requests should never result in non-compliance with laws or the circumvention of City policy.
Recommendation #3	The Administration should regularly remind its staff to report any directions or requests by Councilmembers that have violated or appear to violate any law or City policy, including direction or requests to retroactively process staff hires.
Recommendation #4	Councilmembers and their Aides should comply with Section 218 of the City Charter, including not coercing or influencing staff with respect to any contract or purchase of supplies.

Recommendation #5	Councilmembers and their Aides should comply with Sections 207 and 504(g) by not conducting any administrative actions. For example, Councilmembers should not be involved in administrative actions such as negotiating, establishing terms, or drafting contracts or grants on behalf of the City. Nor should Councilmembers ever sign to release department funds for expenditure.
Recommendation #6	Councilmembers should comply with Section 218 of the City Charter, including not hiring individuals to work in City departments or programs.
Recommendation #7	Councilmembers and their Aides should complete annual training on Section 218, Non-Interference in Administrative Affairs and should annually certify that he or she has attended the training and agrees to uphold Section 218.
Recommendation #8	Councilmembers and their Aides should comply with Section 218 of the City Charter, including not directing or pressuring staff to remove staff recommendations from City Council or Committee meeting agendas.
Recommendation #9	The City Administrator should further educate staff that Councilmembers can not stop staff from bringing their professional recommendations forward and that staff should instantly report when a Councilmember directs, pressures, or demands that staff should not submit their recommendation or that staff should remove a recommendation from the agenda.
Recommendation #10	Councilmembers and their Aides should comply with Section 218 of the City Charter, including never threatening to fire or remove administrative staff from their positions or an assignment.
Recommendation #11	The Administrator should continue to remind all levels of administrative staff that Councilmembers cannot hire, fire, or remove staff from a project and that any threats of such should be reported immediately.
Recommendation #12	Councilmembers and their Aides should comply with Section 218 of the City Charter, including never attempting to have parking staff or parking enforcement officers dismiss or reduce the amount of the Councilmember's or Council Aide's personal (i.e., non-work related) ticket.
Recommendation #13	The Administration should make it clear to all parking staff and parking enforcement officers, as well as all staff involved with processing or managing other types of fines and fees, that staff should not reduce or dismiss personal (i.e., non-work related) fines or fees at a Councilmember's or Council Aide's request. Staff should always refer Councilmembers to the appropriate process to contest or amend a fine or fee.

Summary

Beyond the instances discussed in Chapter 1, the audit found a culture of interference, including staff being unclear about Councilmembers' roles and what are appropriate interactions with Councilmembers. It appears that staff frequently strive to meet both Councilmembers' stated wishes as well as the staffs' perception of the Councilmembers' wants. City staff also appear to routinely re-prioritize their workload to immediately accommodate Councilmembers' requests. This has created a general culture of interference within the City, with administrative staff's work being impacted by Councilmembers. Further, the audit found that the lack of specific guidance and personnel structures allowed for unprofessional treatment of employees working in one community program in Sobrante Park.

Finding 2.1

A Culture of Interference

There is a general culture of interference within the City. The audit found that the culture of interference appears to be felt across many City departments and is perceived to come from multiple Councilmembers. The audit found the following areas that appear to perpetuate this culture of interference in the City:

- Some City staff take the path of least resistance in dealing with Councilmembers when strategizing plans and making recommendations
- Some City staff prioritize Councilmembers' requests above other work
- Some Councilmembers or their Aides treat staff poorly, such as yelling at, threatening, and bullying staff
- Retaliation from Councilmembers is a real concern for staff and past budget deliberations have included the elimination of specific jobs
- Some City staff perceive Councilmembers as their "bosses" or "protectors"
- Councilmembers have not enforced their Code of Conduct or censured their colleagues in the past when the Code has been violated

The Office first reported that there appeared to be a culture of interference in the Office's 2010 and 2011 Ethical Climate Survey Report. Staff further reinforced the presence of this culture during the mandatory ethics trainings that was hosted by the City Attorney, Public Ethics Commission, and the City Auditor from September 2010 to June 2011. During these ethics trainings, one of the two themes voiced by staff was a need for enforcement of the Non-Interference prohibition.

Some City staff take the path of least resistance from Councilmembers and appear to prioritize Councilmembers' requests above other work

The audit found numerous instances where staff noted that they defer to Councilmembers' opinions on projects in order to ensure that the project moves forward in a timely manner. The audit also found numerous instances where staff stated that Councilmembers' requests are interpreted as unspoken

direction and that employees prioritize Councilmember requests over other work items. According to staff, this is a typical practice in the City. Further, in the Administration's review of staff's role in the Rainbow Teen Center, the Administration stated that "for various unknown reasons and/or varying accounts, staff focused on providing service and responding to requests without, in some instances considering the bigger picture of violations of policy or setting precedent without the City Council's direction."

While obtaining a Councilmember's input on projects in the Councilmember's district is reasonable, it appears that there is a pattern of staff deferring to Councilmembers' wishes. This pattern indicates that staff either do not have an understanding of the appropriate role of the Councilmembers or that some staff understand but choose to simply defer to Councilmembers unless there is clear direction and intervention from the Administration. This type of culture undermines the professional expertise of the staff.

Some Councilmembers or their Aides treat staff poorly, such as raising their voices at, threatening, and bullying staff

The audit reviewed several instances and allegations that form a pattern of Councilmembers or their Aides treating administrative staff poorly. Treating staff poorly includes getting angry at, threatening, and bullying staff. For example:

- There is a confirmed instance when a Councilmember threatened to remove an employee from a project
- There is a confirmed instance when a Council Aide left angry voice messages for two staff members, implying the Councilmember would not be happy that the staff had met and encouraged a new business interested in a piece of property in the Councilmember's district
- There is at least one confirmed instance when a staff member was treated so poorly by Councilmembers that the staff member needed stress-related treatment
- There is a confirmed instance of a Council Aide using their position of authority in an attempt to intimidate City staff
- There is a series of ongoing, confirmed instances where one Council Aide continues to yell at, bully, and intimidate staff working on a community program in the Councilmember's district

While the City Council has an established Code of Conduct for how it should treat other Councilmembers, City staff, and the public, it does not appear to enforce it or censure members when they violate the Code. According to the City Attorney, the Code of Conduct applies to both Councilmembers and their Council Aides.

Retaliation from Councilmembers is a real staff concern

Not all City staff was willing to talk with the Office regarding Councilmembers' potential interference violations. Some staff, including staff in senior management positions, declined to speak with the Office because of their fear of Councilmembers' retaliation. Examples of retaliation that employees noted

include: a Councilmember providing negative feedback to the employee's supervisor that would affect the employee's next performance review and the Councilmember trying to thwart or undermine any future recommendations, proposals, initiatives, or contracts that the employee might bring to a Committee or to the City Council for a vote.

Some City Staff perceive Councilmembers as staff's "bosses" or "protectors"

While City staff see the City Administration (such as Department heads, Assistant City Administrators, and the City Administrator) change over time, many Councilmembers are re-elected multiple times and some occupy their position for decades. The combined total years served by the eight incumbent Councilmembers through the 2012 election cycle is approximately 95.5 years.

The audit has heard from staff that the result of Councilmembers being in their positions for a long time is that some staff view Councilmembers as "bosses" or "protectors." Without the enforcement of Section 218 or the City Council's Code of Conduct, this staff viewpoint may perpetuate a culture of interference.

The City Council has not enforced their Code of Conduct, defined procedures for such enforcement (including censure), or censured their colleagues in the past when the Code has been violated.

When each Councilmember is elected and sworn in, the Councilmember signs an oath to uphold the City Charter and faithfully perform all duties of office. Additionally, the Council has an established Code of Conduct. However, no procedures have been defined to enforce the City Council's Code of Conduct, including censure of a Councilmember who breaches public trust or improperly attempts to influence legislation, or willingly violates the rules of conduct. According to Resolution 82580 which includes the City Council's Code of Conduct:

...the proper operation of democratic government requires that public officials are bound to observe, in their official acts, the highest standard of performance and to discharge faithfully the duties of their office, regardless of personal considerations. Recognizing that the public's interest must be their primary concern, their conduct in both their official and private affairs should be above reproach...

According to a legal opinion issued by the City Attorney on March 24, 2006 to one Councilmember and released to the full City Council on June 28, 2006, the City Council is responsible for policing its members. Some options on how the City Council may choose to deal with possible misconduct by one of its members include:

- Censure proceedings
- Investigation of a Code of Conduct violation
- Public Ethics Commission investigation
- Audit by the City Auditor

In order to ensure the proper operation of government, the City Council should have a mechanism to capture and address these concerns in a timely fashion and to decide how to proceed, given the options above and given the various situations of misconduct. Councilmembers should raise concerns about Charter violations when they suspect that their peers may not be honoring their oaths to uphold the Charter, including complying with Section 218.

Last, the audit received a variety of tips that were not substantiated, but showed a pattern of areas where there appeared to be confusion on how Councilmembers and staff should communicate in order to avoid both, the appearance of, or actual interference. These areas included:

- Staff reports—staff noted instances of Councilmembers asking to read and edit staff reports and recommendations before they are submitted to the City Clerk
- District meetings—staff noted that it was common practice in the past for Councilmembers to lead district meetings with staff from key service departments. Staff noted in some of those meetings Councilmembers were perceived as giving direction to staff
- Attendance at community meetings – Staff told the Office that Councilmembers or their Aides have come across as pressuring City staff, including police officers, to attend community meetings
- Status reports—staff noted that a Councilmember requested that staff fill out regular matrixes showing the status of projects in the Councilmember’s district. While in general, matrixes can be viewed as acceptable inquiry, some staff have noted that a Councilmember’s use of matrixes puts pressure on staff, was cumbersome, and impacted the staff’s workload
- Cost analyses—some Councilmembers have requested cost analyses from staff. These requests can be cumbersome, reprioritize the staff’s workload and the staff asked to prepare the analysis may not be the appropriate person for the task, resulting in incorrect or incomplete analyses
- Pay-Go Funds⁵—in the past it appears that Councilmembers have acted as project managers over City projects to which the Councilmember has given pay-go funds
- Transferring funds—some staff have attempted to transfer funds between departments after communicating with a Councilmember
- Calling staff—some staff appear to be receiving phone calls from Councilmembers or Council Aides on the staffs’ personal cell phones or home phones. Some of these calls appear to be outside of the normal business day

While the audit was unable to substantiate interference in any of the patterns listed above, the audit concludes that staff and Councilmembers could use more clarity on how the Administration would like to proceed with communication processes surrounding these key areas.

⁵ Every year, each Councilmember receives a budget allocation, known as pay-go funds. Pay-go funds have historically been used by Councilmembers for their chosen capital improvement projects.

Conclusion

This culture of interference has led to some staff across a number of departments regularly reprioritizing their work to meet Councilmembers or their Aides' requests. Some staff are treated poorly by Councilmembers' or their Aides' yelling at, bullying, and threatening them. It also appears that some staff consider Councilmembers to be their "bosses" or "protectors." Finally, while there is a Code of Conduct for Councilmembers and their Aides, it appears that no one enforces its provision on City Council-staff interactions.

Recommendations

- The Administration should establish clear protocols for how staff should prioritize Councilmembers' requests and how Councilmembers' opinions should be incorporated into staff's work.
- Councilmembers and their Aides should comply with the City Council's Code of Conduct.
- The Administration should not tolerate abusive treatment of its staff by Councilmembers or their Aides. The Administration should continue to educate its staff that they should report anytime a Councilmember inappropriately yells at, threatens, or bullies staff.
- The Administration should regularly encourage staff to come forward and discuss concerns about interference and to report interference. The Administration should also regularly remind staff that they are protected from retaliation.
- The City Council should develop procedures to enforce the City Council's Code of Conduct including censure of a Councilmember or Council Aide who breaches public trust or improperly attempts to influence legislation, or violates the rules of conduct. Such procedures should include a mechanism to capture and address concerns regarding the conduct of Councilmembers in a timely fashion, including compliance with Section 218.
- The Administration should develop clear processes and protocols for how staff and Councilmembers should communicate, including communication regarding staff reports, district meetings, project status requests, pay-go funds, transferring funds, and calling staff after business hours or on personal phone lines.

Finding 2.2

Lack of Involvement and Guidance by the Administration Allowed for Mistreatment of Employees Working in Sobrante Park

One Council Aide for the District 7 Councilmember has continually acted abusively and unprofessionally towards staff working on the City-County Neighborhood Initiative (CCNI)⁶ in Sobrante Park. The Council Aide's actions appear to have created an environment that impacts City staff's (as well as County and community partners) ability to perform their jobs. The Council Aide's abusive actions have been ongoing for more than a year and includes

⁶ The City-County Neighborhood Initiative (CCNI) in Sobrante Park is a committee of City and County staff members who, along with community partners and residents work together to improve neighborhood services. In the Sobrante Park neighborhood, the CCNI has a Resident Action Council, a Time Bank to help residents find others that can help with household projects, and has provided mini-grants, and a series of improvements and community events at area parks.

yelling at CCNI committee members, threatening committee members, publicly demeaning committee members, and attempting to have decisions from the committee go through the Council Aide. The audit heard testimony that staff feared this Council Aide because the Council Aide could hurt their career. There was also testimony that interactions with the Council Aide typically become abusive and confrontational.

While this situation has been ongoing for more than a year, it does not appear the Administration became involved to help mitigate the situation or to shield its staff from the continuing verbal abuse from this individual until December 2012.

Abusive conduct is not interference. However, it is a violation of the City Council's Code of Conduct. Further, as noted in finding 2.1, treating staff poorly adds to the culture of interference.

As a result of the Council Aide's actions and the City staff's reactions to the Council Aide, multiple County and community partners avoid interacting with the City on this project. Several individuals that were interviewed stated that the Council Aide's actions are impeding the progress of the program. While the audit has heard testimony that the Council Aide is helpful and has good intentions regarding the project, overall, it appears that the Council Aide's behavior is inappropriate, unprofessional, and forces staff to continuously defend themselves and their work in order to keep the program moving.

The Administration's lack of involvement and guidance in this situation appears to have allowed for the mismanagement of its employees working on the CCNI in Sobrante Park.

Recommendations

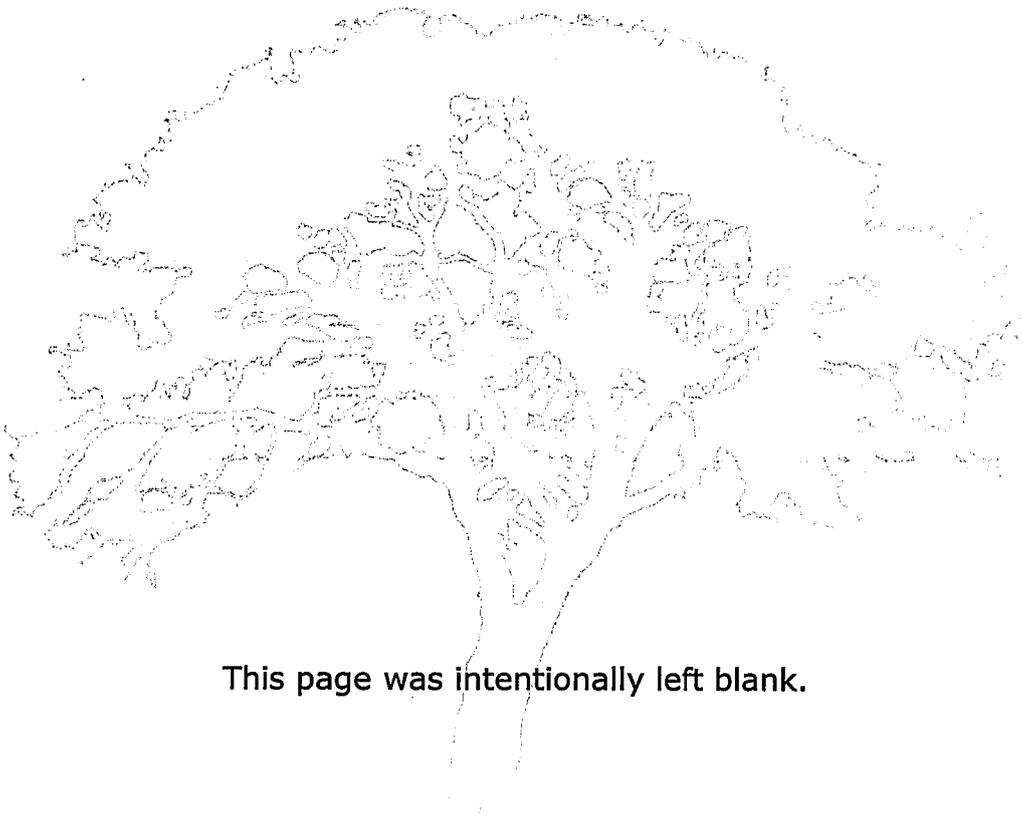
- The City Council should establish guidelines in conjunction with the City Administrator as to how Councilmembers and Council Aides should work with administrative staff on community projects
- The Administration should review how its staff assigned to work on the CCNI in Sobrante Park are being treated and should facilitate improvements to the situation, as needed
- The Administration should implement a general structure on how staff should work with Councilmembers and their Aides on community projects.

RECOMMENDATIONS: Chapter 2

We recommend that:

Recommendation #14	The Administration should establish clear protocols for how staff should prioritize Councilmembers' requests and how Councilmembers' opinions should be incorporated into staff's work.
Recommendation #15	Councilmembers and their Aides should comply with the City Council's Code of Conduct.

Recommendation #16	The Administration should not tolerate abusive treatment of its staff by Councilmembers or their Aides. The Administration should continue to educate its staff that they should report anytime a Councilmember inappropriately yells at, threatens, or bullies staff.
Recommendation #17	The Administration should regularly encourage staff to come forward and discuss concerns about interference and to report interference. The Administration should also regularly remind staff that they are protected from retaliation.
Recommendation #18	The City Council should develop procedures to enforce the City Council's Code of Conduct including censure of a Councilmember or Council Aide who breaches public trust or improperly attempts to influence legislation, or willfully violates the rules of conduct. Such procedures should include a mechanism to capture and address concerns regarding the conduct of City Council members in a timely fashion, including complying with Section 218.
Recommendation #19	The Administration should develop clear processes and protocols for how staff and Councilmembers should communicate, including communication regarding staff reports, district meetings, project status requests, pay-go funds, transferring funds, and calling staff after business hours or on personal phone lines.
Recommendation #20	The City Council should establish guidelines in conjunction with the City Administrator as to how Councilmembers and Council Aides should work with administrative staff on community projects.
Recommendation #21	The Administration should review how its staff assigned to work on the CCNI in Sobrante Park are being treated and should facilitate improvements to the situation, as needed.
Recommendation #22	The Administration should implement a general structure on how staff should work with Councilmembers and their Aides on community projects.



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Appendix A: Communications To the City Council Related to Section 218 Or City Council Roles

February 6, 2003

City Attorney issued a legal opinion to the City Council regarding the City Manager's (now called the City Administrator) powers. The memo included a reminder that Council had no administrative powers and is expressly prohibited from interfering in the administrative affairs/service of the City. (The memo includes several paragraphs reminding the City Council about Section 218 and that violations of this Section can result in forfeiture of office.) The memo also includes a statement that the Administrator holds the power to transfer funds within an agency and City Council approval is required to transfer funds from one agency to another or to appropriate additional money.

June 13, 2003

City Attorney issued an addendum clarifying the February 6, 2003 legal opinion. In the background section the memo restated that the City Council has no administrative powers and is expressly prohibited from interfering in the administrative affairs/service of the City.

May 22, 2006

City Attorney issued a legal opinion to the City Council which included a statement that the Administrator is responsible for controlling and administering the City's financial affairs and that all disbursements of City funds must be approved by the City Administrator or his/her designee (City Charter Section 806) Further, all grants except pay-go grants must be approved by the City Council and pay-go grants shall be authorized, administered, and executed by the City Administrator.

May 24, 2006

City Attorney issued a legal opinion to one Councilmember which clarified the City Council's responsibilities and procedures to deal with possible misconduct, such as inappropriate or unbudgeted use of public funds by one of its members. The City Council can order the following: censure, investigate a violation of the Code of Conduct, Public Ethics Commission investigation, audit by the City Auditor, and reallocation or reduction of a Councilmember's office budget.

June 14, 2006

City Attorney issued a memo to the City Council regarding some City Council offices may not be complying with state law, the City Charter, and City ordinances, policies and procedures in their use of pay-go or other money for improvements and renovations to City owned property. The memo restates that an individual Councilmember has no authority to enter any contract, including a contract for improvements to a City facility. Only the City Administrator has the authority to execute contracts on behalf of the City. The City must bid construction contracts, construction contractors must build public projects in accordance with City and state building codes and specifications, and the contractor must agree to pay state prevailing wages.

June 22, 2006

City Attorney issued a memo to the City Council, as well as the Mayor, City Administrator and Budget Department staff noting that some City Council offices may not be complying with state law, the City Charter and ordinances, policies and procedures when making grants with pay-go and other funds. The memo clarified that the City Charter requires that the Administrator approve all expenditures of City funds and only if they comply with the requirements of the City Charter, state and local laws, and City Council policies and procedures. Further, an individual Councilmember has no authority to enter any contract including a grant agreement.

June 26, 2006

City Attorney issued a legal opinion to the City Council as well as the Mayor, City Administrator and Budget Department staff members expressing that pay-go and all other agreements must be approved as to form and legality by the City Attorney before they are executed.

June 28, 2006

City Attorney issued a letter to the City Council which included a summary of the May 22, 2006 and the May 24, 2006 legal opinions.

June 30, 2006

City Attorney issued a legal opinion to the City Council on the City Administrator's duties regarding the possible misuse of public funds. The Administrator has a duty to not pay requests for expenditures from individual Councilmembers that are inconsistent with the City Charter or any ordinance or policy of the full City Council. The Administrator also has a duty to investigate alleged violations that she suspects may have occurred. If the City Administrator determines an individual Councilmember has made a grant or expenditure without City Council appropriation, the Administrator will report to the City Council and the City Council can decide to deduct the unauthorized amount from the Councilmember's budget for the following fiscal year (City Charter Section 801).

July 18, 2006

City Attorney issued a letter to the City Council which restated that all grants, except pay-go, must be approved by the City Council. The memo further clarifies the difference between grants and contracts. All expenditures relative to improvements to City-owned property are currently governed by City Charter and Municipal Code purchasing rules and require a contract.

December 16, 2009

The Mayor sent a memo to the City Council about Councilmembers' conduct towards administrative staff. If Councilmembers continue to treat staff inappropriately, they will not be permitted to interact directly with staff.

June 30, 2011

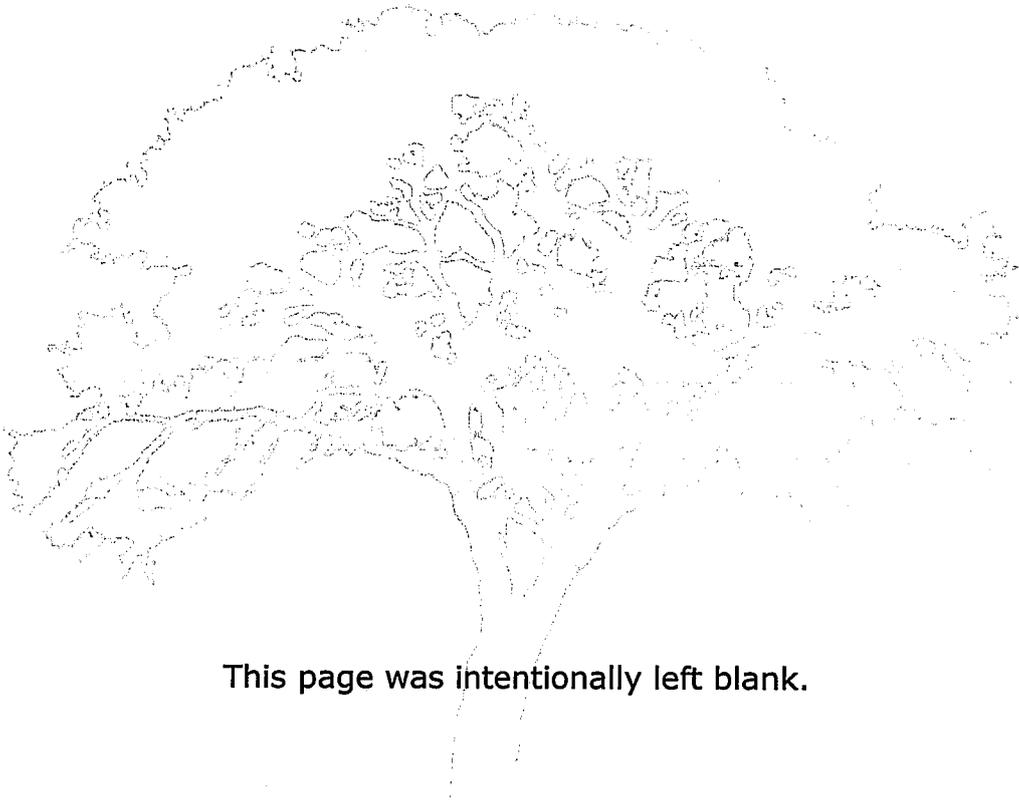
City Auditor issued a letter to the City Council warning that continued involvement in the Revenue Division's staffing assignments is a potential violation of Section 218. The letter included a summary of Section 218.

March 22, 2012

City Attorney issued a letter to all City staff, Councilmembers and City Council member staff about Section 218 including a reminder that it is a violation of the City Charter and a misdemeanor for Councilmembers to interfere in administrative affairs.

March 22, 2012

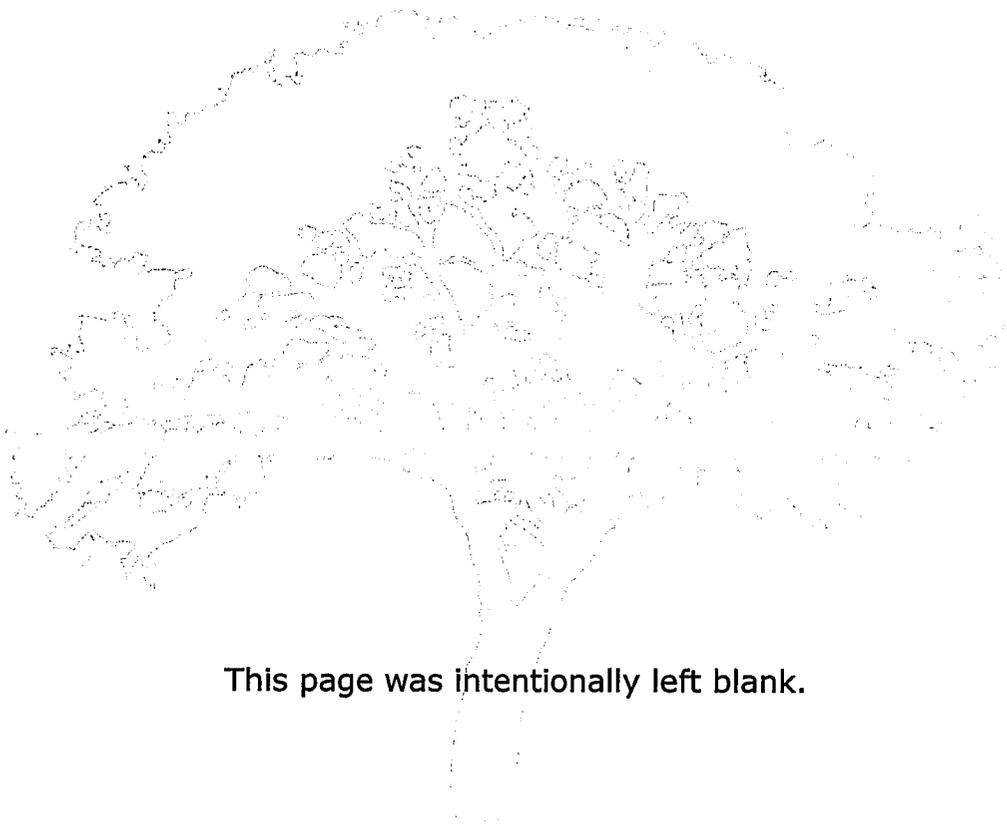
The City Administrator emailed the City Council and all administrative staff regarding the importance of reporting interference and the proper protocol.



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Appendix B: The Charter of the City of Oakland Section 218

Section 218. Non-Interference in Administrative Affairs. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service for which the City Administrator, Mayor and other appointed or elected officers are responsible, solely through the City Administrator, Mayor or such other officers. Neither the Council nor any Council member shall give orders to any subordinate of the City under the jurisdiction of the City Administrator or such other officers, either publicly or privately; nor shall they attempt to coerce or influence the City Administrator or such other officers, in respect to any contract, purchase of any supplies or any other administrative action; nor in any manner direct or request the appointment of any person to or his removal from office by the City Administrator or any of his subordinates or such other officers, nor in any manner take part in the appointment or removal of officers or employees in the administrative service of the City. Violation of the provisions of this section by a member of the Council shall be a misdemeanor, conviction of which shall immediately forfeit the office of the convicted member.

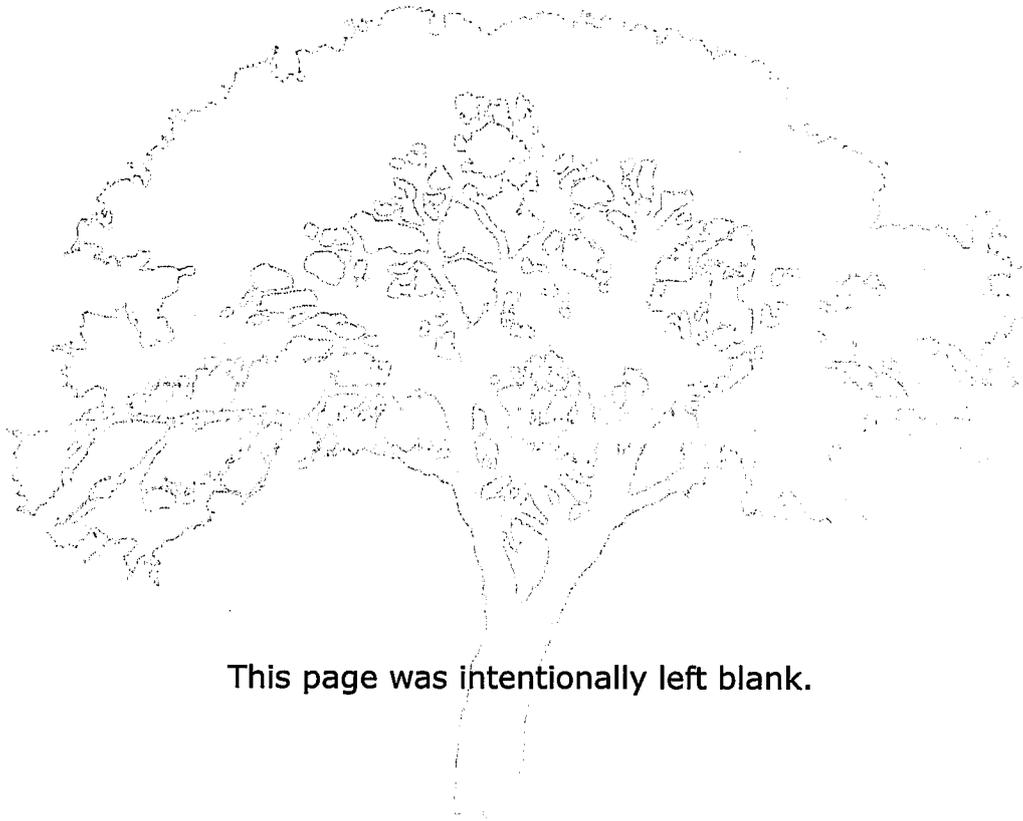


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FINDINGS

The audit found the following:

Finding 1.1	The District 6 Councilmember interfered in the management and renovations for two Oakland recreation centers: the Rainbow Teen Center (also known as the Digital Arts and Culinary Academy) and the Arroyo Viejo Recreation Center (Arroyo Viejo Center).
Finding 1.2	Councilmembers from District 6 and District 7 interfered in Redevelopment's contracting process for an Oakland Army Base demolition and remediation contract (Building 6 contract).
Finding 1.3	The District 6 Councilmember interfered in administrative affairs by threatening to remove City staff from a Redevelopment project in the Councilmember's district.
Finding 1.4	One Council Aide from District 7 interfered in administrative affairs by directing Parking to fix two of the Council Aide's personal parking tickets.
Finding 2.1	There is a general culture of interference within the City that is felt across many City departments and is perceived to come from multiple Councilmembers.
Finding 2.2	One Council Aide from District 7 has continually acted abusively and unprofessionally towards staff working on the City-County Neighborhood Initiative (CCNI) in Sobrante Park. The Council Aide's actions appear to have created an environment that impacts City staff's (as well as County and community partners) ability to perform their jobs.



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RECOMMENDATIONS: Chapter 1

We recommend that:

Recommendation #1	Councilmembers and their Aides should comply with Section 218 of the City Charter, including not directing or ordering administrative staff to meet deadlines set by the Councilmembers. Additionally, Councilmember requests should never result in non-compliance with laws or City policy.
Recommendation #2	The Administration should ensure that its staff, especially its Department directors, Economic Development staff, and Accounts Payable staff, know that Councilmembers do not have the power to give them orders. Further, Councilmembers' requests should never result in non-compliance with laws or the circumvention of City policy.
Recommendation #3	The Administration should regularly remind its staff to report any directions or requests by Councilmembers that have violated or appear to violate any law or City policy, including directions or requests to retroactively process the paperwork for staff hires.
Recommendation #4	Councilmembers and their Aides should comply with Section 218 of the City Charter, including not coercing or influencing staff with respect to any contract or purchase of supplies.
Recommendation #5	Councilmembers and their Aides should comply with Sections 207 and 504.g by not conducting any administrative actions. For example, Councilmembers should not be involved in negotiating, establishing terms, or drafting contracts or grants on behalf of the City. Nor should Councilmembers ever sign to release department funds for expenditures.
Recommendation #6	Councilmembers should comply with Section 218 of the City Charter, including not hiring individuals to work in City departments or programs.
Recommendation #7	Councilmembers and their Aides should complete annual training on Section 218, Non-Interference in Administrative Affairs and should annually certify that he or she has attended the training and agrees to uphold Section 218.
Recommendation #8	Councilmembers and their Aides should comply with Section 218 of the City Charter, including not directing or pressuring staff to remove staff recommendations from City Council or Committee meeting agendas.
Recommendation #9	The City Administrator should further educate staff that Councilmembers can not stop staff from bringing their professional recommendations forward and that staff should immediately report when a Councilmember directs, pressures, or demands that staff should not submit their recommendation or that staff should remove a recommendation from the agenda.

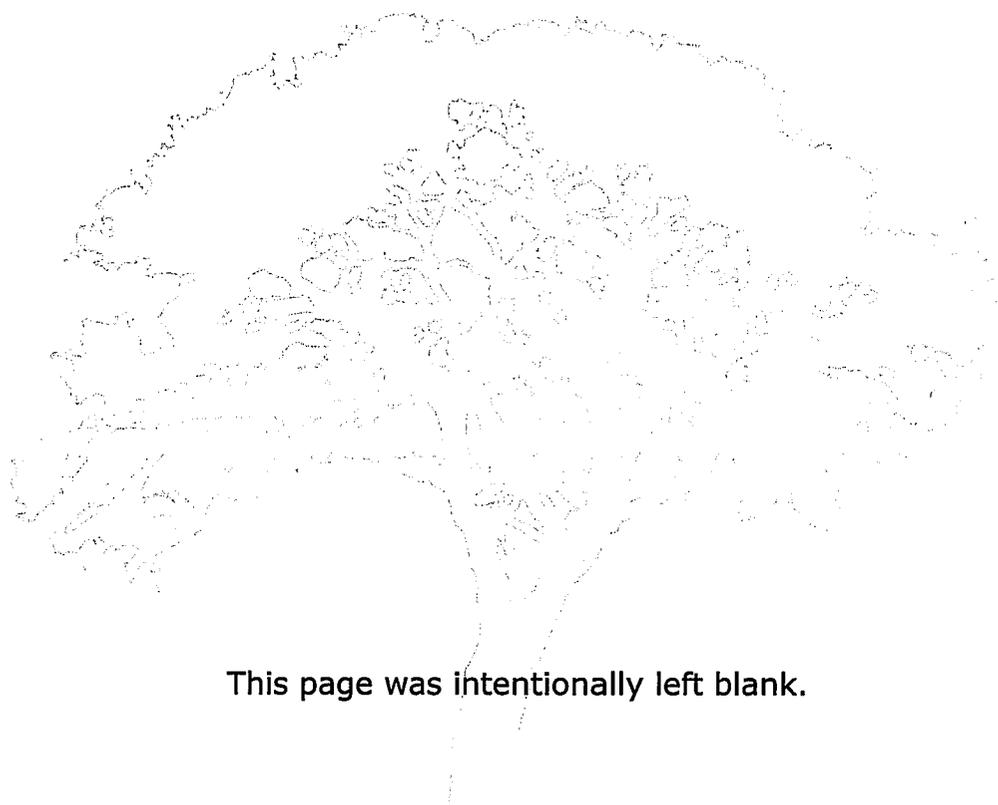
Recommendation #10	Councilmembers and their Aides should comply with Section 218 of the City Charter, including never threatening to fire or remove administrative staff from their positions or an assignment.
Recommendation #11	The Administrator should continue to remind all levels of administrative staff that Councilmembers cannot hire, fire, or remove staff from a project and that any threats of such should be reported immediately.
Recommendation #12	Councilmembers and their Aides should comply with Section 218 of the City Charter, including never attempting to have parking staff or parking enforcement officers dismiss or reduce the amount of the Councilmember's or Council Aide's personal (i.e., non-work related) ticket.
Recommendation #13	The Administration should make it clear to all parking staff and parking enforcement officers, as well as all staff involved with processing or managing other types of fines and fees, that staff should not reduce or dismiss personal (i.e., non-work related) fines or fees at a Councilmember's or Council Aide's request. Staff should always refer Councilmembers and Council Aides to the appropriate process to contest or amend a fine or fee.

RECOMMENDATIONS: Chapter 2

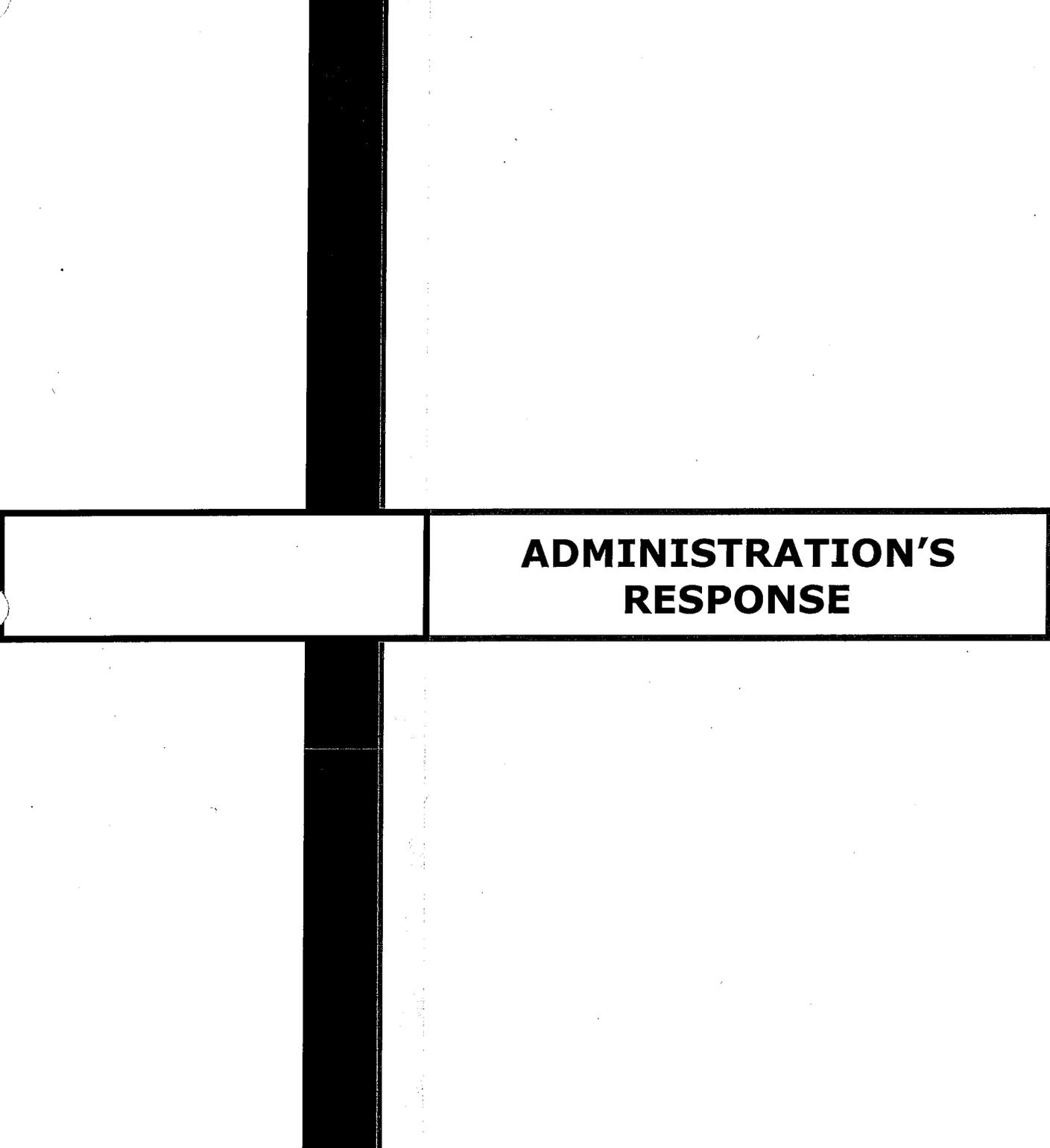
We recommend that:

Recommendation #14	The Administration should establish clear protocols for how staff should prioritize Councilmembers' requests and how Councilmembers' opinions should be incorporated into staff's work.
Recommendation #15	Councilmembers and their Aides should comply with the City Council's Code of Conduct.
Recommendation #16	The Administration should not tolerate abusive treatment of its staff by Councilmembers or their Aides. The Administration should continue to educate its staff that they should report anytime a Councilmember inappropriately yells at, threatens, or bullies staff.
Recommendation #17	The Administration should regularly encourage staff to come forward and discuss concerns about interference and to report interference. The Administration should also regularly remind staff that they are protected from retaliation.
Recommendation #18	The City Council should develop procedures to enforce the City Council's Code of Conduct including censure of a Councilmember or Council Aide who breaches public trust or improperly attempts to influence legislation, or willingly violates the rules of conduct. Such procedures should include a mechanism to capture and address concerns regarding the conduct of Councilmembers in a timely fashion, including complying with Section 218.

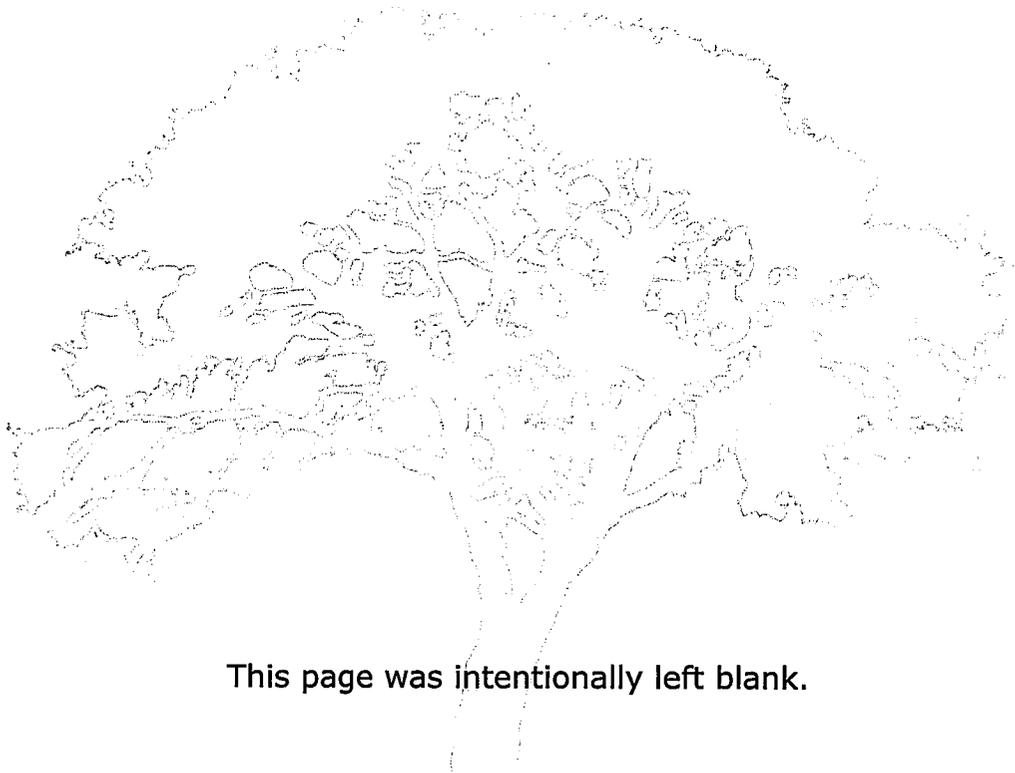
Recommendation #19	The Administration should develop clear processes and protocols for how staff and Councilmembers should communicate, including communication regarding staff reports, district meetings, project status requests, pay-go funds, transferring funds, and calling staff after business hours or on personal phone lines.
Recommendation #20	The City Council should establish guidelines in conjunction with the City Administrator as to how Councilmembers and Council Aides should work with administrative staff on community projects.
Recommendation #21	The Administration should review how its staff assigned to work on the CCNI in Sobrante Park are being treated and should facilitate improvements to the situation, as needed.
Recommendation #22	The Administration should implement a general structure on how staff should work with Councilmembers and their Aides on community projects.



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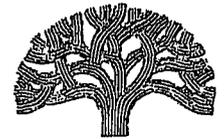
**ADMINISTRATION'S
RESPONSE**



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2013 MAR -7 AM 10:45

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Administrator
Deanna J. Santana
City Administrator

(510) 238-3302
FAX (510) 238-2223
TDD (510) 238-2007

March 7, 2013

Courtney Ruby
City Auditor
City of Oakland
1 Frank Ogawa Plaza, 4th Floor
Oakland, CA 94612-2007

RE: Response to the Non-Interference in Administrative Affairs Performance Audit

Dear City Auditor Ruby,

The Administration is pleased to submit a response to your recent audit pertaining to non-interference in administrative affairs. The audit focused on potential violations of Section 218 of the City Charter over a three-year period (fiscal years 2009-10 to 2011-12). Section 218 establishes the duties and separation of powers of legislative and administrative officials in the City of Oakland. It is designed to ensure that the City's day-to-day operations--such as contracting, hiring and management of City staff--are shielded from inappropriate political influence. Specifically, Section 218 prohibits City Councilmembers from interfering in the administrative affairs of the City.

The Administration agrees with the statement in the audit report which underscores the intent and importance of Section 218: "the appearance of, or actual occurrence of interference directly undermines the effectiveness of the City Council, as a whole, to govern, as well as the City Administration to conduct City operations."

From the outset of my tenure in August 2011, one of the Administration's major priorities has been to focus on improved governance with respect to Charter alignment and related best practices. In formal and informal communications with City staff--from executive ranks to line staff--I have emphasized that good governance relies on the principle that all parties--elected, appointed or staff--must operate within the ethical boundaries and functional parameters defined in the City Charter.

We are fortunate that the City organization has been receptive to this goal and we are in agreement that there is more work to be completed. During my first week, I sent a letter to all City employees outlining my expectations and management principles: included in that letter was my professional value that ethical leaders shape organizations. Through our efforts, the results of the City Auditor's second annual 2011 Ethical Climate Survey showed that in just one year, the Administration had moved the dial towards greater accountability and improved governance; the survey found *"that employees felt management has improved in creating an environment in which staff is comfortable raising ethical*

CITY AUDITOR COURTNEY RUBY

SUBJECT: Non-Interference in Administrative Affairs Performance Audit

March 7, 2013

Page 2 of 2

concerns, appreciating staff bringing forward bad news and appointing and rewarding people on the basis of performance and contribution.” We are pleased that the 2012 Ethical Climate Survey, released in early March 2013, showed additional improvement. The audit stated that:

- “The most significant increase occurred in management helping elected officials work within their policy roles and stay out of day-to-day operations.”
- It credited “the City Administrator’s commitment to business ethics and the focus on non-interference by the City Administrator, City Auditor, and City Attorney” for “impacting the City’s ethical culture for the better.”
- This trend was underscored by one of the employees who commented that, “I appreciate the City Administrator’s open government approach to work and increase in transparent communication with staff, elected officials, and public.”

As the audit pointed out, the Administration surfaced a number of issues through our ongoing work or management reviews over the past 18 months which led to this audit. As stated, given that the Administration lacks investigatory and auditing expertise, we focused on management practices that we can strengthen to address these concerns. Although we recognized the need for an independent audit, the request to fund this effort was denied by the City Council. We appreciate the Auditor for conducting this audit, providing a thorough examination and investigation of the facts using the tools, expertise and authority available within the purview of the Auditor’s Office. The audit’s findings validate the Administration’s concerns and point to the need for continued education and training for both City staff and elected officials regarding appropriate, Charter-mandated roles and responsibilities, and about actions that are expressly prohibited under Section 218.

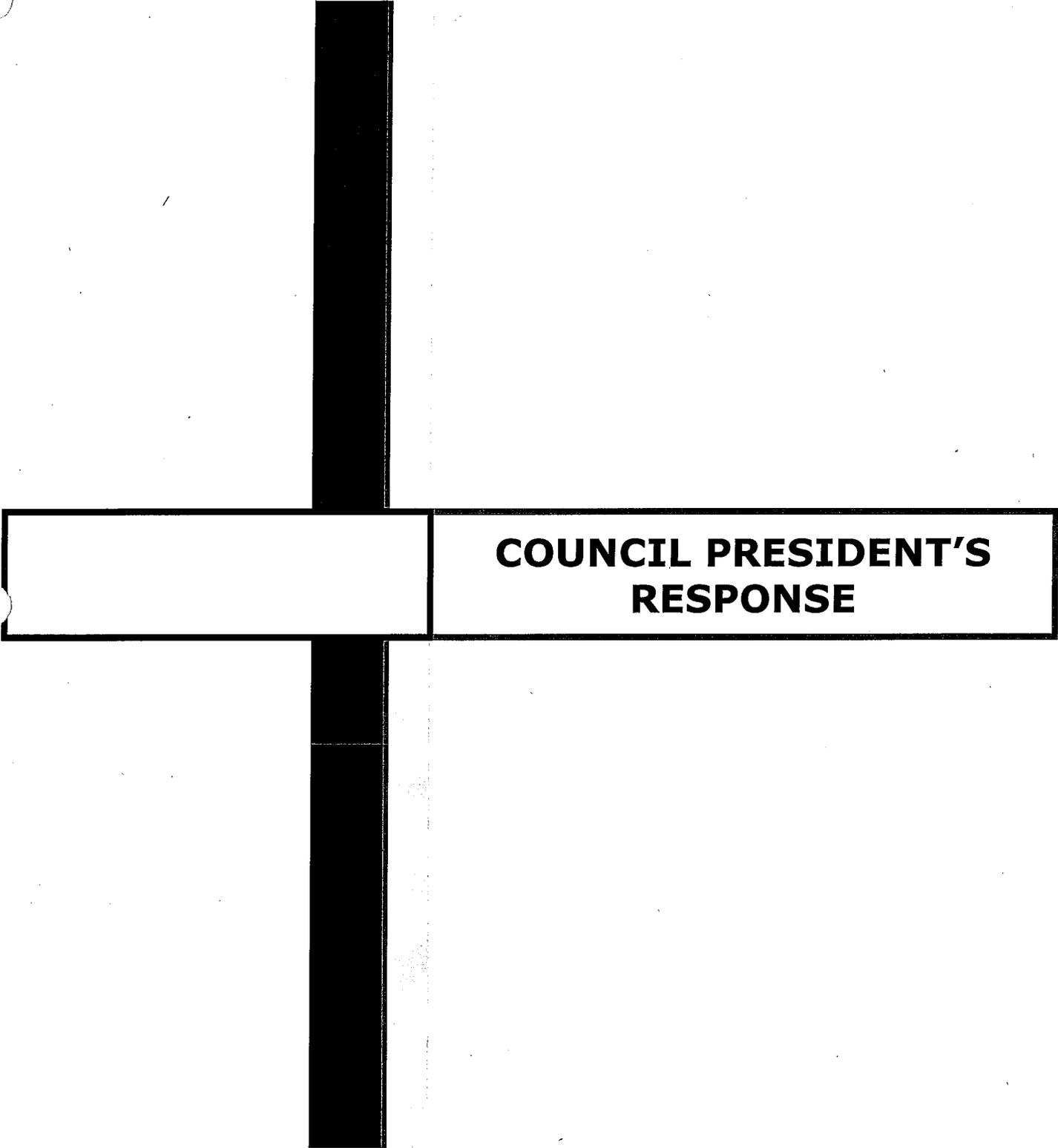
We accept the audit as a work plan for the Administration to advance in the interest of improved governance and best practices. The Administration concurs with the Auditor that City staff must be consistently and routinely informed that they may not take direction from City Councilmembers, and staff must be provided with clear guidance and protocols regarding how to respond to Councilmembers’ legitimate requests for information or how to work on community projects. This ongoing communication will clarify the importance of reporting any inappropriate conduct through the proper chain of command without fear of retribution or retaliation. The goal will be an organization that continues to provide quality service that is responsive to the needs of the community and stakeholders, while maintaining appropriate interactions between City Councilmembers and staff.

Once again, we appreciate your work to ensure that Oakland’s governing system is operating according to the legal framework of the Charter that will ensure fairness, transparency and effectiveness in meeting the needs of the people we serve.

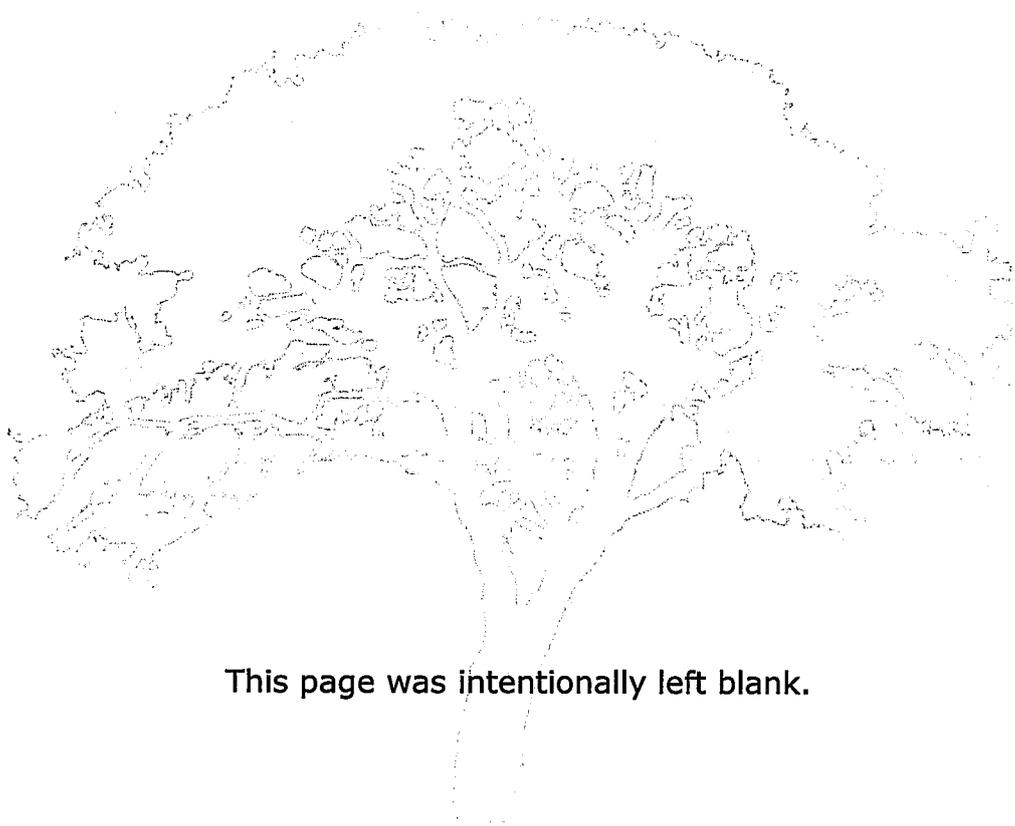
Sincerely,



Deanna J. Santana
City Administrator



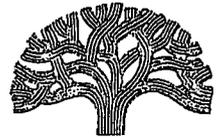
**COUNCIL PRESIDENT'S
RESPONSE**



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CITY OF OAKLAND



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CITY HALL • ONE FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

PATRICIA KERNIGHAN
Councilmember
District 2

(510) 238-7002
FAX (510) 238-6910
TDD (510) 839-6451

To: Courtney Ruby, City Auditor

From: Patricia Kernighan, City Council President

Date: March 7, 2013

Re: Audit on Non-Interference in Administrative Affairs

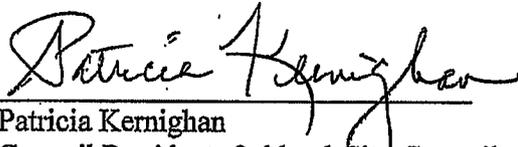
Dear City Auditor,

You have provided me, as President of the City Council, a copy of your audit entitled "Non-Interference in Administrative Affairs," and asked me to submit a written response to the Recommendations therein. Because the President of the City Council is not authorized to speak on behalf of the entire City Council on policy matters without first seeking the input of the full City Council, my response at this time is limited and preliminary.

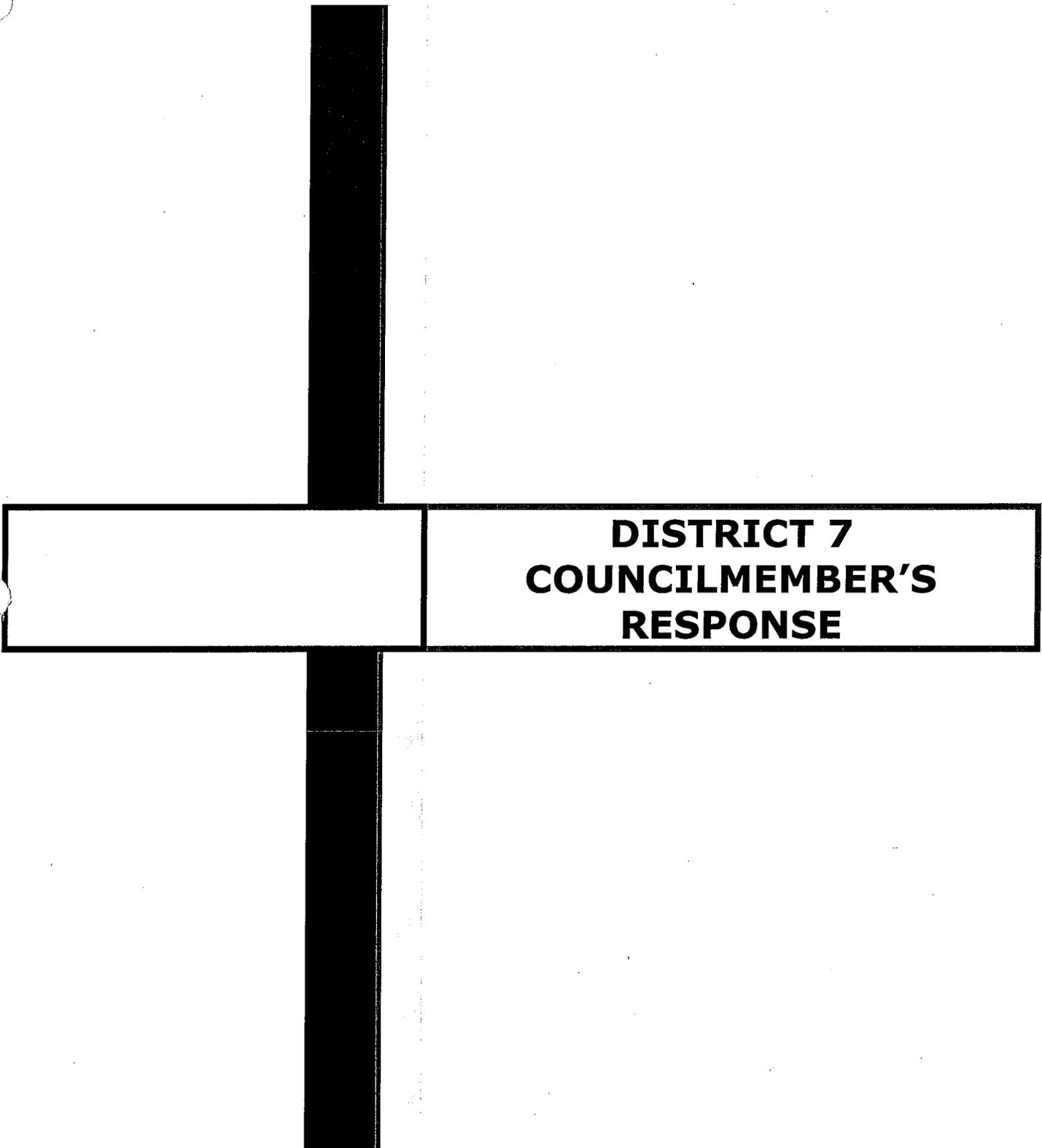
I take note of all the findings and recommendations made in the audit. The issues raised are serious and worthy of great consideration and response, both with respect to the audit's findings of interference as to specific Councilmembers and aides, and as to findings of a general "culture of interference" in administrative affairs at the City. The issues raised by the audit with respect to adherence to City Charter provisions and to the appropriate nature of communications between Councilmembers and Council aides with the staff under the direction of the City Administrator are important and need further exploration and discussion between the City Council and City Administration. In order that this discussion take place and that the full City Council has a means by which to formulate responses to your audit recommendations, I will convene a public meeting of the City Council on that topic. It is my hope that through thorough discussions of the issues, we will arrive at a common understanding that provides clarity and guidance for all concerned as to appropriate standards for communications between individuals in our separate branches of City government. I will also put before the Council the opportunity to review and discuss the Council's own Code of Conduct and what procedures we should adopt to enforce that Code of Conduct. As you noted in the audit, one specific form of enforcement for violations of either the City Charter or the Council Code of Conduct is the use of censure. Currently, there is no adopted process for the imposition of censure. As recommended, I will initiate Council consideration of a set of procedures that Council could use to impose censure on a member of the body when warranted. Finally, I will submit to City Council consideration of a proposal for annual or biannual training

for Councilmembers and Council aides on ethics and compliance with the City Charter and Council Code of Conduct.

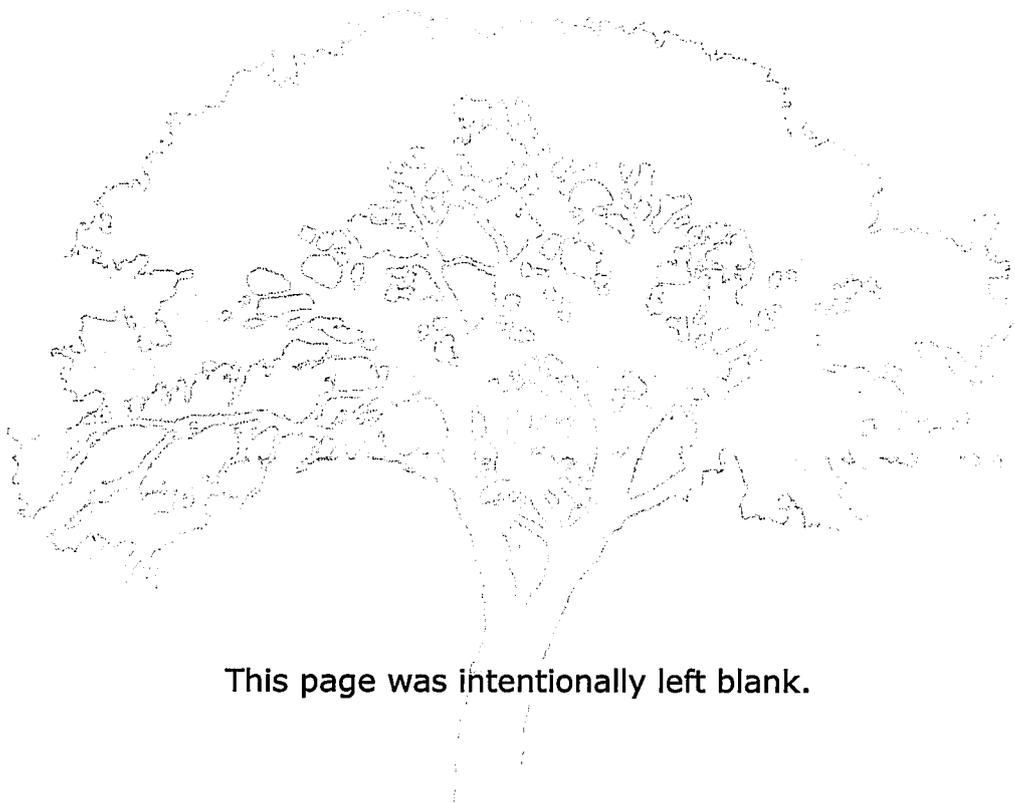
Thank you for conducting this audit on matters that are important to the ethical and effective functioning of our City government, and thus to maintaining the trust of our citizens in the government that serves them.

A handwritten signature in cursive script that reads "Patricia Kernighan". The signature is written in black ink and is positioned above a horizontal line.

Patricia Kernighan
Council President, Oakland City Council

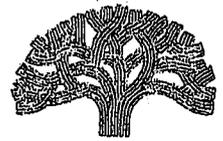


**DISTRICT 7
COUNCILMEMBER'S
RESPONSE**



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CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

LAURENCE E. REID
Vice Mayor
Councilmember District #7

(510) 238-7007
FAX (510) 238-6910

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March 4, 2013
The Honorable Courtney Ruby
Auditor
City of Oakland
One Frank Ogawa Plaza
4th Floor
Oakland, Ca. 94612

Dear Madam City Auditor

As the Councilmember representing the 7th District for the City of Oakland, please accept this formal response to our meeting of February 25th, 2013 at which time you indicated, per your findings under Section 218, the non-interference clause, that I had directed staff to a RFP on behalf of the Turner Group.

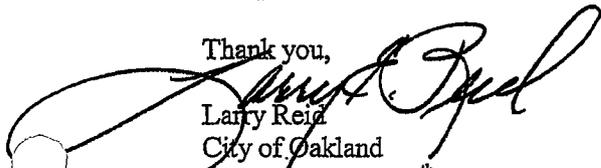
For the record, under no circumstances did I, at any time, direct staff to issue a RFP on behalf of the Turner Group as it relates to the Oakland Army Base Development or any other Development Project within the City of Oakland.

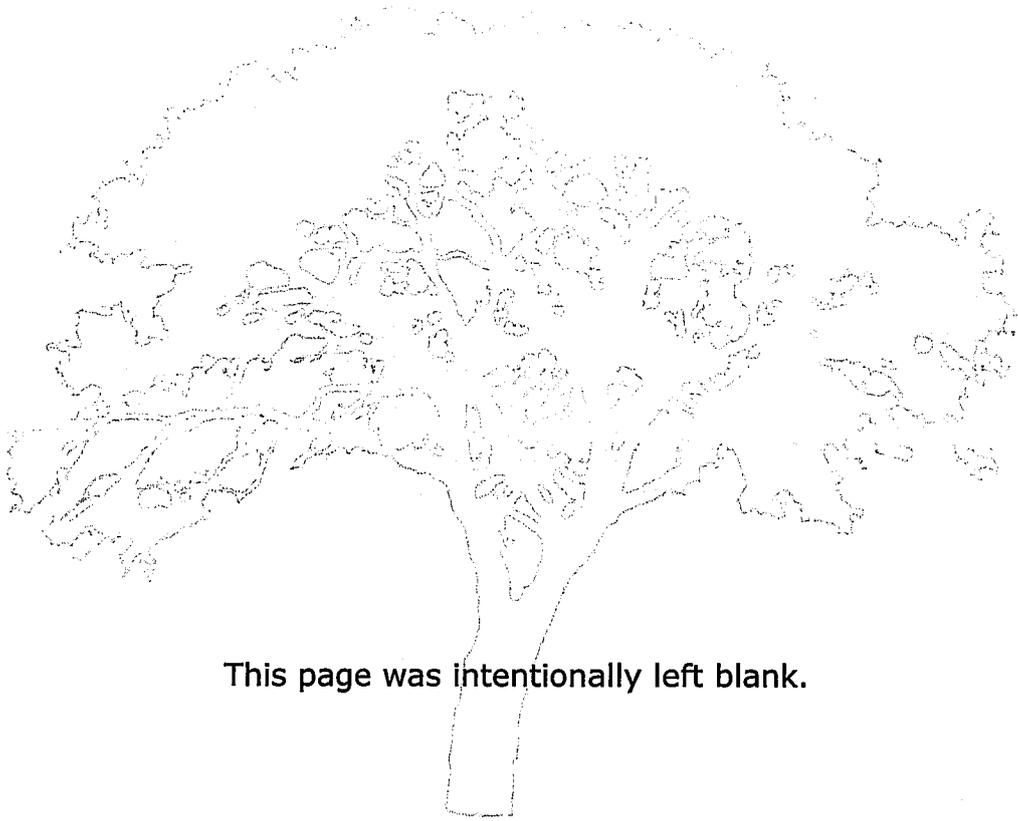
When this item came to the attention of the governing body (Rules and Legislation Committee), there was a concern of the awarding of a contract that had been awarded, though a non-competitive process, in which an outside firm was privileged to the work to be performed, without the possibilities of any locally owned companies to be considered.

From my understanding, there was a contract that was awarded to a local firm that was then rescinded, and awarded to a firm that was not local nor considered to be minority owned or women owned. The concerns of many of us was to re-issue a new RFP so that all local firms could compete and that this would level the "playing field" for all locally owned firms. At no time did I direct staff to issue any RFP's for any one company located in Oakland, and for the record, this was a discussion that was to be considered for a new RFP process for all local firms.

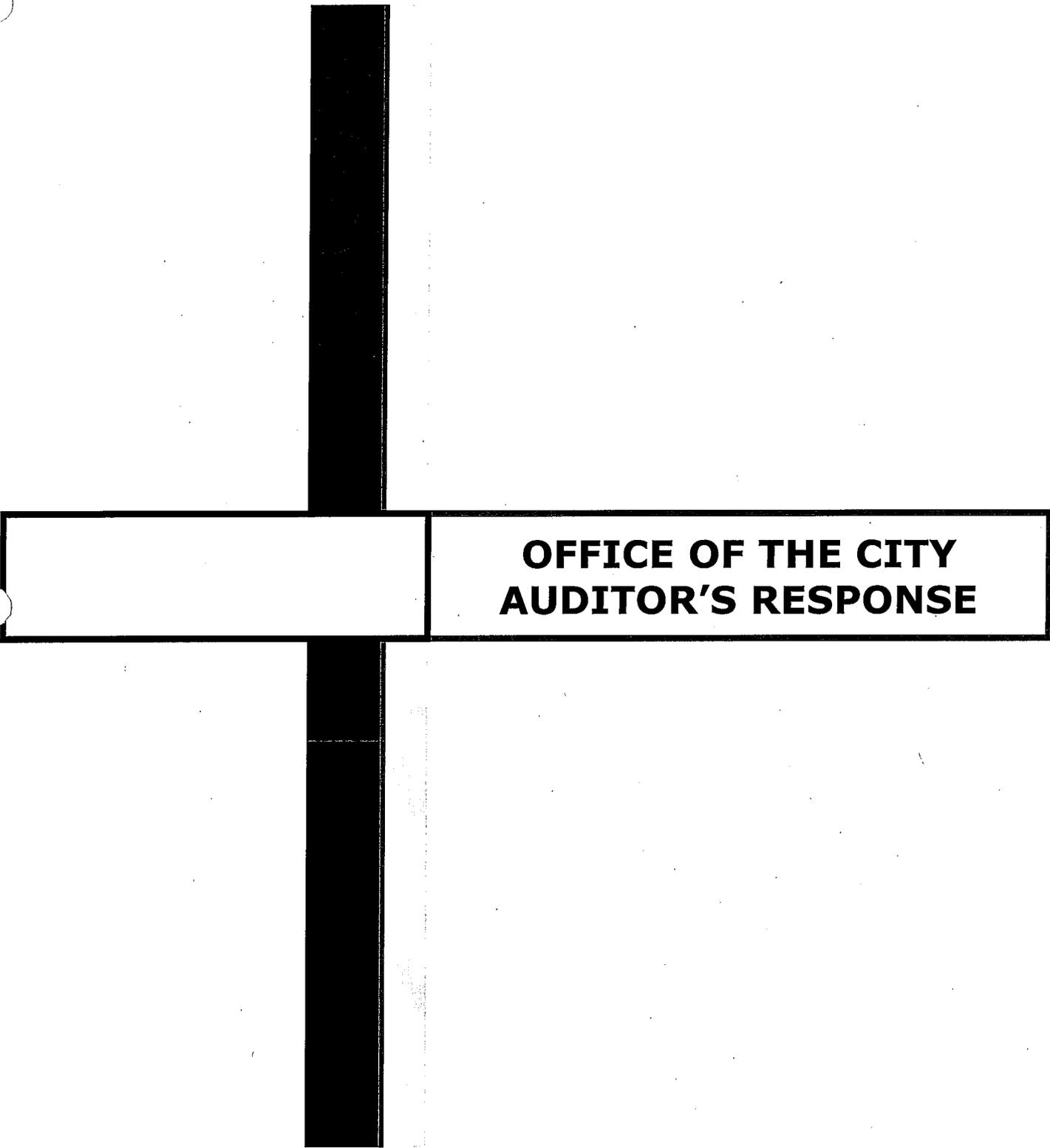
I am available at any time to discuss this with you and to assure you that the process of a Competitive Bidding Process is the concern of my office as well as all of my colleagues.

Thank you,

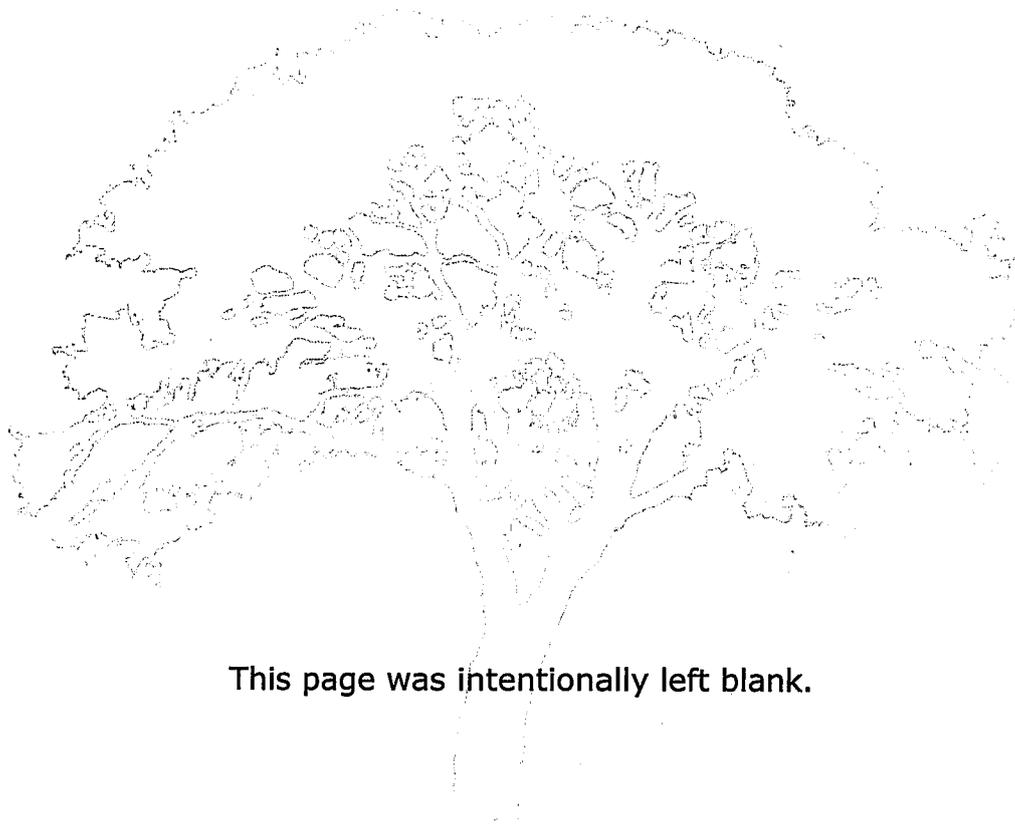

Larry Reid
City of Oakland
Council Member, 7th District



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**OFFICE OF THE CITY
AUDITOR'S RESPONSE**



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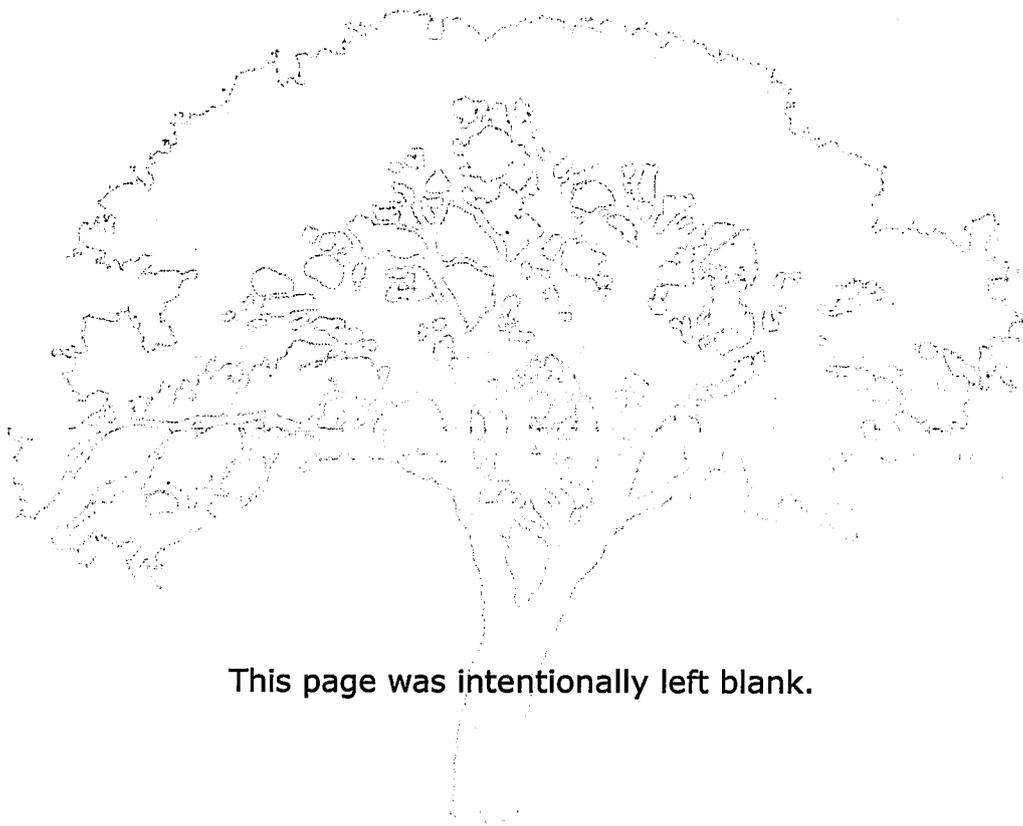
Office of the City Auditor's Response

The audit made 22 recommendations to the City Administration and the City Council. The City Administrator's and the City Council President's responses to the audit recommendations are included in the report.

The City Administrator responded that the Administration concurs with the Auditor that City staff must be consistently and routinely informed that they may not take direction from City Councilmembers, and staff must be provided with clear guidance and protocols regarding how to respond to Councilmembers' legitimate requests for information or how to work on community projects.

The City Council President responded that the issues raised are serious and worthy of great consideration and response, both with respect to the audit's findings of interference as to specific Councilmembers and Aides, and as to findings of a general "culture of interference" in administrative affairs at the City. In order for the full City Council to formulate a response to the audit's recommendations, the Council President will convene a public meeting to discuss. Additionally, the Council President will put before the City Council the opportunity to review and discuss the Council's own Code of Conduct and what procedures they should adopt to enforce that Code of Conduct. Finally, the Council President agreed to submit for City Council consideration a proposal for annual or biannual training for Councilmembers and Council Aides on ethics and compliance with the City Charter and Council Code of Conduct.

The City Auditor's Office will monitor the forthcoming City Council proceedings and request from the City Administrator and the Council President in six months an update on the progress of implementing the report's recommendations so that we may issue a follow-up report to the public regarding the implementation status of the report's recommendations.



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City of Oakland

Ethical Climate Survey – 2012

“Do you think Oakland fosters an ethical work environment?”



Courtney A. Ruby
City Auditor
(510) 238-3378
www.OaklandAuditor.com
cityauditor@oaklandnet.com



In November 2012, City Auditor Courtney Ruby initiated Oakland's third annual Ethical Climate Survey, again asking City employees, “Do you think Oakland fosters an ethical work environment?”

The survey showed that Oakland's overall ethical climate remained in a good place and has improved from the previous year in every category. However, Oakland's overall score grew only marginally, and most of the problem areas had been identified in the previous surveys. Oakland still has room to improve in several key areas, yet we are starting to see a positive shift.

The “Employee” section was again the highest-rated category, with seven of the ten statements' scores ranking *high*, consistent with last year's results. Employees expressed that they are expected to tell the complete truth when performing their work duties, to use ethical behaviors in getting results, and to treat everyone who comes before them equally. No statement ranked lower than a *medium* score for this section.

The survey's results showed that the “Management” section improved in all categories but one, with all scores for each statement rated *medium* or *high*. The most significant increase occurred in management helping elected officials work within their policy roles and stay out of day-to-day operations.

While the “Elected Officials” section was the lowest-scoring, remaining in the red zone, it showed the greatest improvement with all statements except one improving five or more points. All statements are now rated *medium* but only one is within striking distance of the *high* score. Four areas increased by 10 points or more: elected officials allowing staff to handle day-to-day affairs, creating an environment in which staff is comfortable raising ethical concerns, excluding themselves from decisions when appropriate, and refusing special treatment.

The survey also gave employees the opportunity to provide additional thoughts and comments. One theme expressed was frustration with the slow progress toward a strong ethical environment. A sample of these employee comments can be found in the column to the right.

However, it is clear from this year's survey results that the ethical climate in Oakland is shifting. The mandatory ethics training for management sponsored by the City Auditor, City Attorney, and the Public Ethics Commission; the City Administrator's commitment to business ethics; and the focus on non-interference by the City Administrator, City Auditor, and City Attorney are impacting the City's ethical culture for the better.

In their own words... City Employees' Survey Comments

“I think it will take quite some time for the ethical climate and culture to change here at the City of Oakland. It helps that the Executive Management models ethical behavior and standards, but I feel the City Council - as career politicians - do not operate under the same code of conduct.”

“I appreciate the City Administrator's open government approach to work and increase in transparent communication with staff, elected officials, and public.”

“The City Council should treat staff with respect and civility and stop directing staff.”

“Government needs two things to function properly, accountability and transparency. Until you create a culture where failure to adhere to these two principles results in serious consequences, you will always have internal problems that will never be resolved. In my opinion the City has a long ways to go in achieving these objectives.”

“I see the following issues as the City's biggest ethical challenges: (1) City Council interference in administrative matters; (2) Public perception that City Council is dysfunctional due to individual political ambitions and the lack of cooperation.”

“The rude behavior of City Council members toward each other and occasionally toward staff during council meetings sets a bad example for everybody else and puts a damper on the idea of their effectiveness as a problem-solving body. Oakland has problems too serious for the posturing that goes on and assets too valuable to waste through bureaucratic neglect.”

“I appreciate the City Administrator's stated commitment to hearing from staff, but nothing has really happened to that effect this past year. This actually does affect the ethical environment as well as quality of city services, and application of true performance measures.”

Oakland's Overall Score

The chart below shows the results for each section of Oakland's third Ethical Climate Survey. Each section reflects an increase of four to five points from the baseline results of the 2010 survey. The overall increase over baseline is 13 points. For a more complete explanation of the results below and suggested actions for Oakland to take, consult the scoring matrix located at the end of this report.

Survey Section	Rating	2010 Score	2011 Score	2012 Score
Employees	Medium	65	68	70
Management	Medium	53	55	57
Elected Officials	Low	38	41	43
Overall	Medium	156	164	169

Survey Response Rate

Survey participation was voluntary and anonymous, with every level (line, supervisory and management) from all departments participating. Overall, almost nine percent of all employees participated in the survey. Of the 404 survey participants, 346 employees identified their position in the survey. With respect to position level, employee participation was generally consistent with the makeup of the City's workforce. While the total employee response rate was the lowest since the survey began three years ago, line staff participation was the highest ever.

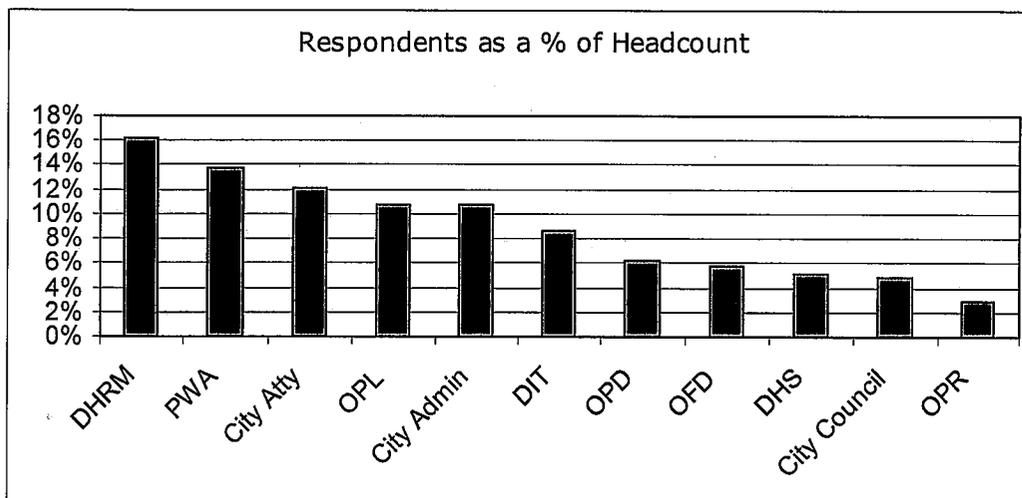
	<u>2010</u>	<u>2011</u>	<u>2012</u>
Response Rate	10.3%	11.7%	8.6%

Employee Participation by Position

	<u>2010</u>	<u>2011</u>	<u>2012</u>
Line	65%	61%	67%
Supervisor	24%	27%	24%
Management	11%	12%	9%

Employee Participation by Department

The two largest departments, the Oakland Police Department and the Office of Parks & Recreation had a less than the average response rate of 8.6% (6 percent and 3 percent, respectively). The Public Works Agency, the third largest department, had almost twice the average response (14 percent).



The chart above shows participation by the department's total employee headcount for City departments with more than 10 employees. As you can see, the Department of Human Resource Management had the highest participation rate of 16 percent, while OPR had the lowest rate at three percent.

Institute for Local Government "Ethical Climate Survey"

This survey, designed by the Institute for Local Government (ILG), helps local municipalities identify ethical blind spots or reassures them that their ethical house is in order. The ILG states:

The key question for local municipalities is the degree to which ethical standards influence decision-making by both the organization and individuals within the organization.

The survey is broken down into three, short sections comprised of ten questions and examines respondents' perceptions of three distinct groups: the employee (him/herself), management and elected officials.

For each section, respondents were instructed to:

Determine if a statement is "Always," "Almost Always," "Sometimes" or "Rarely" true based upon his or her experiences and perceptions working for the City of Oakland.

OR

Select "Don't Know" if she or he didn't feel as if they knew the answer.

The following pages of this report look at the results for each section of the survey, identify both positive and weak areas, as well as analyze the message staff are sending and receiving.

In my local government, I am...

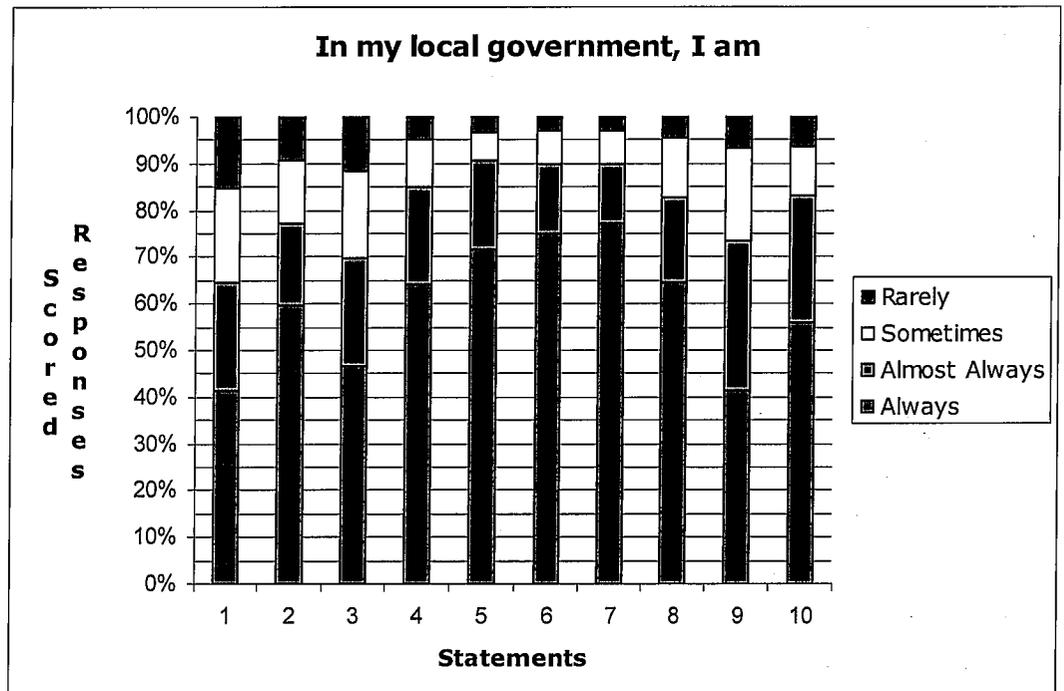
Section One: Employee

The Employee section had the best score of the three categories, with an average score of 70.

Looking at the bar graph to the right, you can see that the vast majority of responses were "Always" and "Almost Always" and met the "High" score ranking.

According to their responses, employees clearly expressed that they felt they are expected to use ethical behaviors in getting results and to tell the complete truth when performing their work.

However, it was clear from the responses that greater attention must be paid towards encouraging employees to speak up about any agency practice or policy that is ethically questionable.



NOTE: Rate of "Don't Know" responses = 4%

Good News

Respondents believe they are expected to:

- Follow the spirit as well as the letter of the law
- Use ethical behaviors to achieve results
- Tell the complete truth
- Treat everyone equally regardless of personal or political connections

Bad News

Respondents indicated the lowest score for:

- Being encouraged to speak up about agency practices and policies that are ethically questionable

* Indicates tie score

Statements

Statements	Score
1. Encouraged to speak up about any agency practices and policies that are ethically questionable.	Medium
2. Expected to report questionable ethical behaviors of others.	High
3. Clear about where to turn to for advice about ethical issues.	Medium
4. Expected to follow the spirit as well as letter of the law in my work for the agency.	High
5. Expected to use ethical behaviors in getting results.	Highest
6. Expected to tell the complete truth in my work for the agency.	Highest*
7. Expected to treat everyone who comes before the agency equally, regardless of personal or political connections.	Highest*
8. Expected to follow stated policies of the governing body and not the desires of individual elected or appointed officials.	High
9. Surrounded by coworkers who know the difference between ethical and unethical behaviors and seem to care about the difference.	Medium
10. Working with one or more trusted confidantes with whom I can discuss ethical dilemmas at work.	High

In my local government, executives...

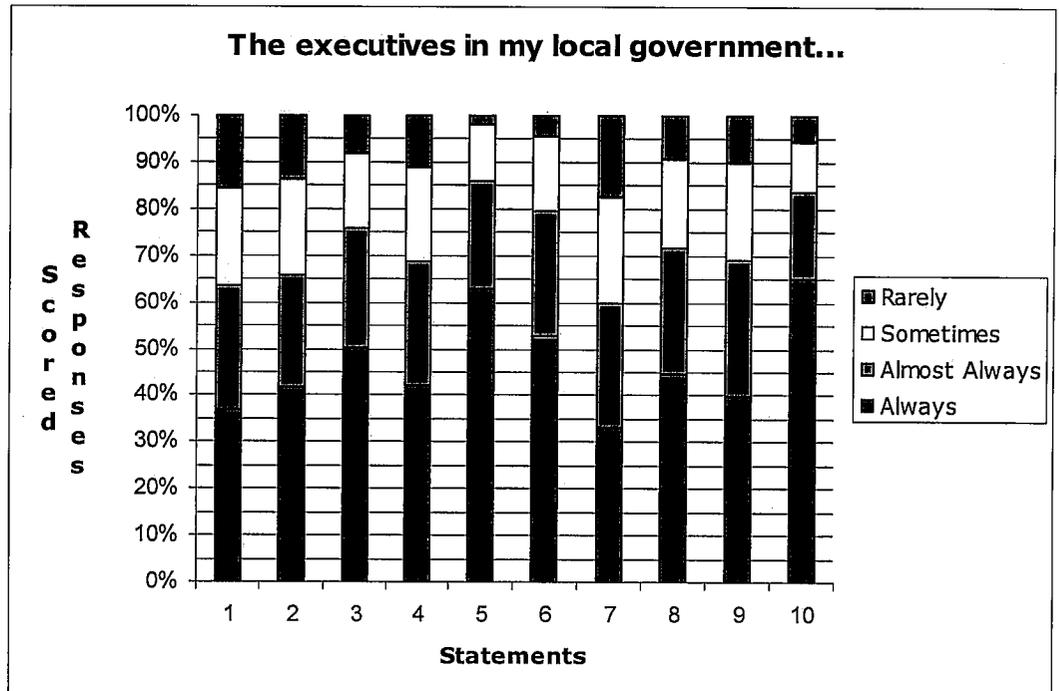
Section Two: Management

The Management section had the median score of the three categories, with an average score of 57.

Looking at the bar graph to the right, you can see that most responses were "Always" and "Almost Always."

Respondents expressed that executives treat the public with civility and respect, appropriately use public resources and refuse gifts and special treatment, and expect staff to use ethical practices.

However, it was clear from the data that greater attention must be paid by management towards appointing and rewarding employees on the basis of performance and contribution to the organization's goals and services.



NOTE: Rate of "Don't Know" responses = 13%

Good News

Respondents perceived that Oakland's executives:

- Treat the public with respect
- Use public resources only for agency purposes
- Expect staff to use ethical practices in getting results
- Refuse to accept gifts and/or special treatment from outside vendors

Bad News

A strong ethical environment requires incorporating ethics into hiring and evaluation; however, respondents indicated the lowest score for:

- Appointing and rewarding staff performance and contribution

Statements

Score

- | | |
|--|---------|
| 1. Create an environment in which staff is comfortable raising ethical concerns. | Medium |
| 2. Appreciate staff bringing forward bad news and don't "shoot the messenger" for doing so. | Medium |
| 3. Expect staff to use ethical practices in getting results – not "whatever it takes." | High |
| 4. Gear their decisions to the spirit as well as letter of the law. | Medium |
| 5. Treat the public with civility and respect. | Highest |
| 6. Use public resources only for agency purposes and not for their own personal or political uses (such as agency supplies, staff time and equipment). | High |
| 7. Appoint and reward people on the basis of performance and contribution to the organization's goals and services. | Medium |
| 8. Treat all members of the public equally, regardless of who has people "connections." | Medium |
| 9. Help elected officials work within their policy role and stay out of day-to-day work of the agency. | Medium |
| 10. Refuse to accept gifts and/or special treatment from those with business before the agency. | High |

In my local government, elected officials...

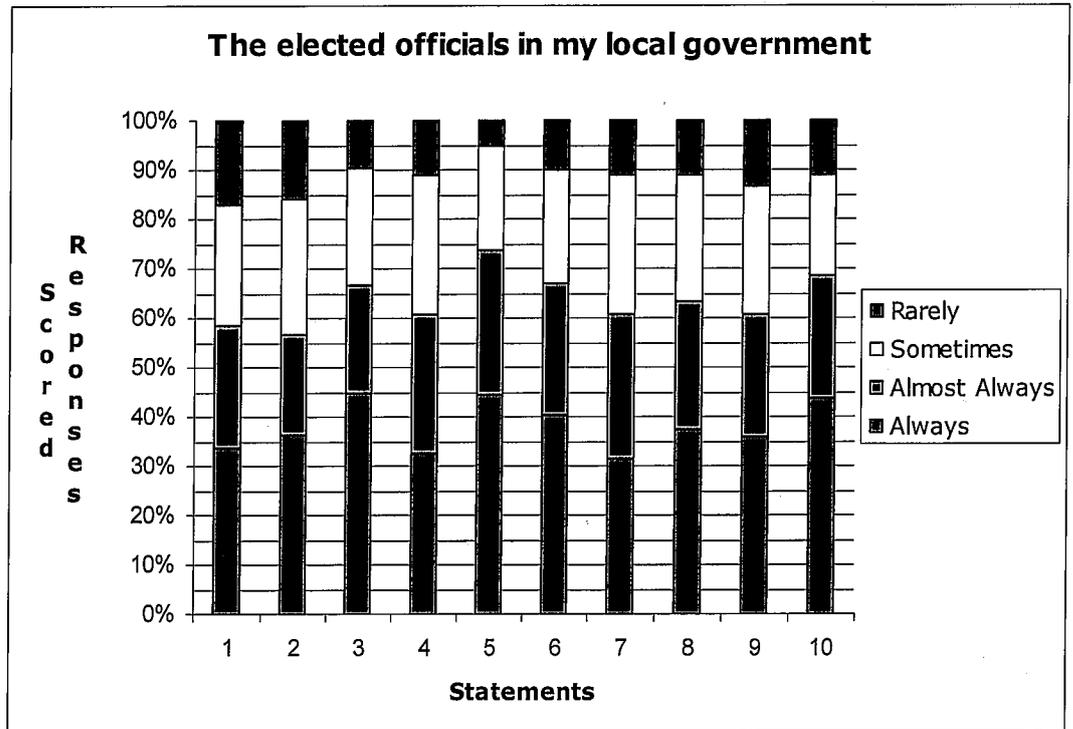
Section Three: Elected Officials

The Elected Officials section was the lowest scoring category, with an average score of 43.

More than one quarter of all respondents did not know the answers for this section, showing that elected officials must do more to visibly set the "tone at the top" and demonstrate the importance of ethical behavior in government.

Positively in this section, the scores improved by five points or more in every category but one. Respondents rated highest that elected officials treat the public with civility and respect.

However, it was clear from the responses that greater attention must be paid by elected officials towards creating an environment where employees are comfortable raising ethical concerns and providing "bad news."



NOTE: Rate of "Don't Know" responses = 29%

Good News

Respondents observed that elected officials

- Treat all members of the public equally, regardless of political connections
- Refuse to accept gifts and/or special treatment from those with business before the agency
- Use public resources only for agency purposes

Bad News

Respondents continued to perceive that elected officials need to do more to:

- Exclude themselves from decisions when they cannot reasonably be impartial
- Create an environment where employees are comfortable raising ethical concerns
- Appreciate staff bringing forward bad news
- Allow the staff to handle day-to-day management issues

* Indicates tie score

Statements

Statement	Score
1. Create an environment in which staff is comfortable raising ethical concerns.	Medium
2. Appreciate staff bringing forward bad news and don't "shoot the messenger" for doing so.	Medium
3. Expect staff to use ethical practices in getting results – not "whatever it takes."	Medium
4. Gear their decisions to the spirit as well as letter of the law.	Medium*
5. Treat the public with civility and respect.	Medium
6. Use public resources only for agency purposes and not for their own personal or political uses (such as agency supplies, staff time and equipment).	Medium
7. Allow the staff to handle day-to-day management issues and don't try to get involved.	Medium*
8. Treat all members of the public equally, regardless of who has people or political connections.	Medium
9. Exclude themselves from decisions when reasonable members of the public might question their ability to make a fair decision.	Medium*
10. Refuse to accept gifts and/or special treatment from those with business before the agency.	Medium

Answer Scoring

The Institute for Local Government's Ethical Climate Survey measures perceptions about ethics in a local government's work environment. For the purpose of scoring, ILG does not award points for "Don't Know" responses as they present an ethical gap in the organization's overall ethical climate. This survey tool has a graduated scoring algorithm that weighs responses as follows:

Always	Almost Always	Sometimes	Rarely	Don't Know
10 points	7.5 points	5 points	2.5 points	0 points

Institute for Local Government Scoring Matrix

High – Congrats!

75 – 100 per section
225 – 300 for survey



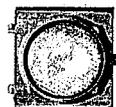
Your agency has a strong ethical environment.

Keep up the good work, including such steps as:

1. Incorporating ethics into the hiring and evaluation process for staff
2. Conducting regular ethics-related learning opportunities, including examples of ethical dilemmas and ways to resolve them
3. Going through specific items on the assessment to identify further opportunities for positive change
4. Reinforcing the importance of ethical considerations in agency behaviors and decisions

Medium – Pause!

50 – 74 per section
150 – 224 for survey



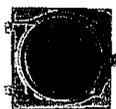
Take a moment to reflect.

Your agency is at a good place but has room to improve by doing the following:

1. Evaluating the areas of weakness indicated by the questionnaire and considering targeted remedial actions
2. Analyzing the messages that staff and others receive and send about ethics
3. Reviewing the agency's policies, including the criteria by which staff are evaluated
4. Considering if having a code of ethics would be helpful for the agency
5. Following the best practices indicated in the box above

Low – Stop!

0 – 49 per section
0 – 149 for survey



Your agency's culture needs significant change.

Suggested activities include:

1. Identifying the aspects of the agency's culture that foster the problematic behaviors and analyzing how to remediate them
2. Consulting with your agency's attorney about potential violations of laws and agency regulations
3. Following the best practices indicated in the boxes above

Public Ethics Commission Pending Complaints

Date Rec'd	Case #	Complainant	Respondents	Date of Alleged Violation	Alleged Violation	Status	Priority
2/8/2013	13-2	Marteen Sacks	City Attorney's Office	1/24/2013	Alleges a violation of the California Public Records Act and Oakland's Sunshine Ordinance.	Staff is reviewing	H/M 3
11/21/12	12-14	Avram Gur Aye	Jane Brunner	11/8/2012	Alleges respondent violated the City of Oakland's Conflict of Interest regulations in their involvement with the proposed Safeway on College Avenue.	Staff is reviewing	H/S 2
11/1/12	12-13	Judith Cox and Pamela Drake	Ignacio De La Fuente	9/28/2012	Alleges respondent violated Oakland's Campaign Reform Act by accepting campaign contributions in violation of the \$700 contribution limit.	Staff is reviewing	H/M 3
11/1/12	12-12	Okhoo and Ernest Hanes	Mitch Thomson (City Arborist, Tree Section, Public Works Agency) and Camille Rodgers (Vegetation Management Inspector - Oakland Fire Department)	3/20/2009 - 3/29/2012	Alleges respondents abused their City authority and misused public funds.	Staff is reviewing	H/M 3
10/18/12	12-11	Scott Alonso	Ignacio De La Fuente	July 26, 2012	Alleges respondent used his Councilman elected position and City resources for a campaign press conference.	Staff is reviewing	H/S 2

* 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).

Date Rec'd	Case #	Complainant	Respondents	Date of Alleged Violation	Alleged Violation	Status	Priority*
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)	Staff is reviewing	H/L 4
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	Staff is reviewing	M/M 4
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	Staff is reviewing	H/L 4
4-4-11	11-01	PEC initiated	ABC Security and/or Ana Chretien; Marina Security and/or Sam Tadesse	Various; approx. betw 3/1/107/10 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
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

Date Rec'd	Case#	Complainant	Respondents	Date of Alleged Violation	Alleged Violation	Status	Priority
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
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 was directed to explore settlement in lieu of hearing.	M/M 4
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	Awaiting hearing re: Records Management Policy	M/M 5
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	Staff is investigating	M/M 4

