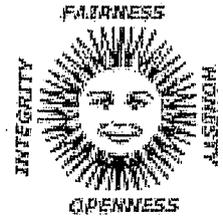


CITY OF OAKLAND  
PUBLIC ETHICS COMMISSION  
One Frank Ogawa Plaza (City Hall)  
Special Commission Meeting  
Thursday, October 3, 2013  
Sgt. Mark Dunakin, Hearing Room 1  
6:30 p.m.



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

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

### SPECIAL MEETING AGENDA<sup>1</sup>

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

### CONSENT ITEMS<sup>2</sup>

4. Approval of Commission Draft Minutes.
  - a. September 3, 2013, Regular Meeting Minutes (Attachment 1 - Minutes)

### GUEST PRESENTATIONS

5. **Records Management Policy.** Deidre Scott, Records Manager in the City Clerk's Office, will provide the Commission with an update on the work that has been done to date on the Records Management Program, which is set to go before the City Council Rules and Legislation Committee in October. (Attachment 2 – Memo from City Clerk)
6. **Citywide Public Records Request System, Code for America Online Application Launch.** Karen Boyd, Communications Director for the City Administrator, joined by fellows Cris Cristina, Sheila Dugan, and Richa Agarwal, will introduce and demonstrate the new Code for America application designed for making and managing requests for City records. (Attachment 3 – Memo from Commission Staff)

<sup>1</sup> This meeting is called a "special meeting" under the Oakland Sunshine Ordinance because it is not a *regular* meeting occurring on the date that was posted by the Commission at the beginning of 2013. The Commission's regular October meeting was rescheduled from October 7 to October 3, due to Commissioner availability, and is now called a "special meeting" as a result.

<sup>2</sup> Consent items will be voted on all at once, unless a Commissioner requests removal of an item from consent prior to the vote.

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PUBLIC ETHICS COMMISSION  
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## DISCUSSION ITEMS

7. **Subcommittee Reports.** The Commission currently has three ad hoc subcommittees: 1) Access to Public Records, 2) Complaint Procedures, and 3) Commissioner Recruitment. The Commission may make announcements regarding either of these subcommittees.
8. **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 4 – Complaint Log)

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) 238-3611. Notification two full business days prior to the meeting will enable the City of Oakland to make reasonable arrangements to ensure accessibility.

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

Approved for Distribution

9/23/13

Date

CITY OF OAKLAND  
PUBLIC ETHICS COMMISSION  
One Frank Ogawa Plaza (City Hall)  
Commission Meeting  
Tuesday, September 3, 2013  
Sgt. Mark Dunakin, Hearing Room 1  
6:30 p.m.

DRAFT



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

## **MEETING MINUTES**

### **1. Roll Call and Determination of Quorum.**

The meeting was called to order at 6:36 p.m.

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

Staff present: Whitney Barazoto, Lauren Angius, Mark Morodomi (for Kathleen Salem-Boyd)

### **2. Staff and Commission Announcements.**

Executive Director Whitney Barazoto made the following announcements:

- The Commission has filled the newly budgeted full-time Program Analyst position; Lauren Angius was hired effective September 2, 2013, and brings a passion for ethics in government and experience in litigation, research, marketing, and communications. The Commission welcomed Ms. Angius as a new full-time employee.
- The Commission recently initiated a project with OpenOakland to visualize the campaign finance data collected by the City through its NetFile e-filing system.
- The Commission added a new “Explore” page to the Commission’s website to serve as an open government portal. The goal of this portal is to consolidate the City’s disclosure information in one online location.
- Commission staff participated in Councilmember Kalb’s first working group meeting on August 21. The working group brainstormed potential issues to work on and they plan to hold a public meeting around September 30 to elicit public opinion. The group is aiming to draft proposals by the end of the year.

### **3. Open Forum.**

There were no speakers.



## CONSENT ITEMS<sup>1</sup>

### 4. Approval of Commission Draft Minutes.

The Commission approved 5-0 the June 3, 2013, Regular Meeting Minutes, the June 25, 2013, Special Meeting Minutes, and the July 24, 2013, Special Meeting Minutes.

## ACTION ITEMS

### 5. Correction of Agenda Materials from the July 24, 2013 Public Ethics Commission Meeting.

At the July 24, 2013, Commission meeting, staff provided an oral presentation to the Commission, accompanied by PowerPoint slides. The PowerPoint slides had not been posted with the agenda in advance of the meeting, so staff corrected the omission by including the slides with the agenda materials for the September 3, 2013, Commission meeting. The Commission provided an opportunity for the public to comment on the slides. There were no public speakers.

### 6. Letter to City Council Regarding Public Ethics Commission Authority.

The Commission discussed a draft letter from the Commission to City Council to request the Council adopt a City ethics ordinance and provide an additional staff to the Commission. Commissioners suggested minor changes to the letter and requested staff and the Chairman to make the changes and issue the letter. The Commission approved the letter, with minor edits as discussed, with a 5-0 vote.

### 7. Commission Vacancies in 2014.

The Commission approved 5-0 the 2013 Commissioner Application and formed a subcommittee consisting of Commissioner Baker, Commissioner Tejeda and Commissioner Rivera to review and interview applicants.

### 8. Complaint/Enforcement Program.

The Commission took the complaint log under advisement.

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<sup>1</sup> 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  
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DRAFT



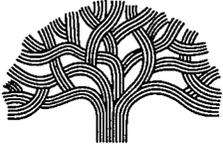
- a. **Complaint No. 13-07** (Public Works). Commissioner Whitman moved and Commissioner Tejada seconded to dismiss Complaint No. 13-07 on the grounds that the alleged violations are not in Commission jurisdiction. The Commission approved the motion 5-0.
- b. **Complaint No. 12-14** (Brunner). Executive Director Barazoto suggested dismissing this case not on the grounds that it is outside of the Commission's jurisdiction, but because it should be referred to another governmental or law enforcement agency better-suited to address the issue. Ms. Barazoto added that staff had forwarded the complaint to the California Fair Political Practices Commission. Commissioner Whitman moved and Commissioner Johnson seconded to dismiss Complaint No. 12-14. The Commission approved the motion 5-0.

## DISCUSSION ITEMS

### 9. Limited Public Financing Program Policy Review.

The Commission discussed a written report by Greg Gonzales, graduate student at the U.C. Berkeley Goldman School of Public Policy, who conducted a policy review of the City of Oakland's Limited Public Financing Program. Ms. Barazoto mentioned that staff will be incorporating many of the suggested administrative changes into the program's 2014 election year implementation.

The meeting adjourned at 8:11 p.m.



CITY OF OAKLAND

*TO: Honorable Members of the Public Ethics Commission*

*FROM: LaTonda Simmons, City Clerk,  
Office of the City Clerk*

*DATE: October 3, 2013*

*RE: Citywide Comprehensive Records Management Program – Preliminary Report*

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### **Summary**

On June 3, 2013, the Office of the City Clerk appeared before the Public Ethics Commission to provide an oral report on the status of the development of the citywide Comprehensive Records and Information Management Program, pursuant to Resolution 82908 C.M.S.

At the meeting, the Office of the City Clerk stated the anticipated return of the full report would be August 2013; however program details could not sufficiently be finalized in time for August presentation. This preliminary report serves to address the program work completed to date, identify continuing program development objectives & next steps, and provide a date certain for presentation of the full report to the City Council's Rules and Legislation Committee and thereafter the Public Ethics Commission.

### **Program Development - Completion To Date**

The development activities for the proposed Records and Information Management Program have been extensive and comprehensive in scope and planning. The Office of the City Clerk strives to deliver a records management program compliant with state and local requirements that specifically is both achievable and sustainable. Planning activities to date have focused heavily on assessing departmental records management practices, participating in records management development groups to further planning efforts, and developing an implementation strategy to address the organizational issues and ensure full activation of the program.

The culmination of the assessment information and planning has been incorporated into the following documents as framework and recommendations of the program:

- 1) A Comprehensive Records and Information Management Program reflective of full records lifecycle activities and management of regular program activity
- 2) Recommendations to update existing and establish new program elements
- 3) A scalable implementation schedule with 3 distinct phases to achieve activation of program elements.
- 4) Staff training throughout program implementation and regular training thereafter
- 5) Development of administrative policy documents under the authority of the City Administrator to ensure citywide participation and compliance with program requirements and activities

- 6) Discussion on the needs assessment for the City's technology and capacity to effectively manage electronic records across enterprise, business applications, mission critical and 3<sup>rd</sup> party content management systems
- 7) Recommendations for continuing strategy sessions with DIT to achieve RM policy objectives
- 8) Identified fiscal support to achieve activation of the proposed program

### **Key Issues In Program Development**

There have been many challenges affecting momentum and program development activities. The Office of the City Clerk has remained focused on identifying and developing strategies to address those elements necessary to complete the program development and achieve successful implementation.

Notwithstanding substantial planning efforts, many issues still require broader discussion and policy decisions regarding the management of records citywide with particular emphasis on electronic records. The specific issues move well beyond the scope of records oversight and the purview of the Office of the City Clerk and have been escalated to the Office of the City Administrator and the Department of Information Technology for direction and collaboration.

Among the top key issues are:

- Acknowledging the complexities of electronic records management within systems serving as the backbone of department operations and function.
- The City's reliance on innumerable decentralized technical systems to deliver services and conduct business.
- The critical need to have policy direction from the Department of Information Technology (DIT) in consultation with the Office of the City Administrator
- The critical need for technical assessment, analysis, and capital investment to meet RM policy objectives and provide for effective electronic records management.
- The critical need for a technology management plan for all City systems
- Securing funding to ensure successful implementation and sufficient program management and oversight
- Mandating Citywide participation

### **Additional Work Necessary – Expansion of Program Detail**

Meetings with the Office of the City Administrator, Director of the Public Ethics Commission and, independently with the Department of Information Technology, the Office of the City Clerk discussed the magnitude and scope of the development activities undertaken to produce the proposed program and the above key issues. Additional program elements were identified and direction was provided to augment the draft report to discuss the above key issues and provide more information as continuing work and policy consideration for the City Council and PEC.

The additional information will discuss the City's capacity to meet program requirements, discuss the challenges associated with the electronic records management, provide comparative information on what records management elements currently exist, and address the Clerk's plan on how to achieve full cycle activity and citywide management of records. The presentation will also provide opportunity for the Department of Information Technology to discuss the challenges of electronic records management and their role and plan to address the concerns.

## **Next Steps**

The Office of the City Clerk is revising the draft report for delivery to the City Administrator's office inclusive of the requested additional program. The Office of the City Clerk has targeted delivery of the report for review and comment by the City Administrator with the presentation at the October 17, 2017 meeting of the Rules and Legislation Committee prior to referral to the PEC's November meeting.

We anticipate a robust discussion by all and look forward to the feedback and recommendations from the City Council, Public Ethics Commission, and public on the Comprehensive Records and Information Management Program.

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# **CITY OF OAKLAND**

## **Public Ethics Commission**

Lloyd Farnham, Chair  
Aspen Baker, Vice-Chair  
Roberta Ann Johnson  
Benjamin Kimberley  
Monique Rivera  
Eddie Tejeda  
Jenna Whitman



Whitney Barazoto, Executive Director

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TO: Public Ethics Commission  
FROM: Whitney Barazoto, Executive Director  
DATE: September 23, 2013  
RE: Access to Public Records System Project Update

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The first week in October marks the launch of the new Public Records Request System application developed by Oakland's Code for America fellows in partnership with City leaders and staff, including the Public Ethics Commission (PEC) and staff. As part of the launch, City staff and fellows will be providing a demonstration of the new application at the Commission's October 3, 2013, meeting.

At the same time, Commission staff is providing a status update on the Access to Public Records project work by staff in partnership with the City Administrator's Office, the City Clerk's Office, and the City Attorney's Office. Below is an overview of the Commission's project and activities to date.

### **Background**

At its January 7, 2013, meeting, the Public Ethics Commission initiated a review of the City's system of providing access to public records, with the goal of improving accessibility of Oakland public records. The Commission formed the Access to Public Records subcommittee to make recommendations for improvement and issued a memorandum (dated December 19, 2012) outlining a framework for an ideal public records system, described as follows:

- 1. Law** - Develop potential amendments to the Sunshine Ordinance
- 2. City Policy/Administrative Instruction** – A policy to affirm the Public Records Act and Sunshine Ordinance and articulate roles and procedures, identify department coordinators, and articulate penalties and incentives for compliance.
- 3. Process for Responding to Requests** – A process based on the City Policy, complete with tools for staff such as instructions on how to respond to requests, sample response letters, a master list of public records coordinators for each department, a redaction guideline/checklist, and other helpful tools

4. **System/Database for Tracking Records Requests** – Technology to facilitate the process of responding to requests, tracking information about requests, and understanding the volume and types of requests received
5. **Online Availability of Information** – Information provided to the public through City websites in general, as well as information about how to make a specific public records request and who to call for help
6. **Prototype for Improving Online Information** – PEC could serve as an example of how to redesign its website to be more user-friendly and better meet the needs of its customers
7. **Incentive/Reward System** – Measures that can be taken by management and/or the PEC to encourage and improve compliance with public records requirements
8. **Ongoing Feedback Mechanism** – Solicit feedback on access public records issues – whether related to the availability of online information, a response or lack of response to a request, or changes needed in the law

On January 18, 2013, Commission staff met with City Administrator Deanna Santana who was receptive and responsive to the Commission’s suggested framework. Her administration meanwhile had been working since early 2012 to apply for and receive a Code for America fellow, with the aim of have the fellow create a new public records request online application. To begin implementing the other suggestions made by the PEC, and to assist the incoming Code for America fellows in designing the technology, Ms. Santana and Karen Boyd, Communications Director for the City Administrator’s office, formed a public records working group consisting of the following key City staff interested in improving the system:

- Karen Boyd, Communications Director, City Administrator’s Office
- Nicole Neditch, Online Engagement Manager, City Administrator’s Office
- Deidre Scott, Records Manager, City Clerk’s Office
- Alex Katz, Chief of Staff, City Attorney’s Office
- Arlette Flores-Medina, Open Government Coordinator, City Attorney’s Office
- James Bondi, City Administrator Analyst, City Administrator’s Office
- Whitney Barazoto, Executive Director, Public Ethics Commission

The working group began meeting on January 31, 2013, and has continued to meet every two weeks to put in place the following elements:

- Administrative Instruction
- Informational brochure for the public
- Staff guide and tools for redacting information
- Technology tool for tracking requests
- Web page/portal for finding City information and making requests for records
- Training

As of September, in addition to assisting the Code for America fellows in developing the technology tool, the working group completed and submitted to the City Administrator a draft Administrative Instruction to provide policy guidance on how staff should respond to public records requests. Meanwhile, the City officially launched its Open Data platform in February with over 50 data sets, The platform now has over 100 data sets, including the City’s campaign finance data collected through Netfile. The working group has worked on the informational

brochure for the public and began to draft a training guide for staff. The group also has discussed potential structural changes that could be made to provide better management and accountability of the City's openness of its records.

The launch of the Code for America public records request online application marks the completion of yet another tool that aims to improve the accessibility of public records in Oakland. The Code for America fellows will complete their project work in November, 2013.

## ***Public Ethics Commission Pending Complaints***

<b>Date Rec'd</b>	<b>Case #</b>	<b>Complainant</b>	<b>Respondents</b>	<b>Date of Alleged Violation</b>	<b>Alleged Violation</b>	<b>Status</b>	<b>Priority*</b>
9/11/2013	13-08	Rashidah Grinage	Mayor Jean Quan  City Administrator Deanna Santana  City Attorney Barbara Parker	Ongoing	Alleges a violation of the Ralph M. Brown Act and Oakland Sunshine Ordinance by holding private meetings to "re-legislate through labor negotiations what was public policy decided in Open Session under the Ralph M. Brown Act." (Related to decisions being made about whether to place intake positions within the Oakland Police Department or the Citizens' Police Review Board.)	Staff is reviewing	
8/1/2013	13-6	Miguel Vargas	City Council	July 30, 2013	Alleges a violation of the Ralph M. Brown Act by the City Council in structuring the agenda to limit public comment.	Staff is reviewing	
7/23/2013	13-5	John Klein	Office of the Mayor	June 25, 2013 to present	Alleges a violation of the California Public Records Act by the Office of the Mayor in not responding to a public records request.	Staff is investigating	
7/15/2013	13-4	Retired Oakland Police Officers Association	Police & Fire Retirement System Board	6/19/2013	Alleges a violation of the Oakland Sunshine Ordinance and the Ralph M. Brown Act by holding a closed session meeting on June 19, 2013.	Staff is investigating	
6/10/2013	13-3	Ralph Kanz	City Council Members: Brooks, Reid, Gallo, Kalb & Gibson-McElhaney.	6/10/2013	Alleges a violation of the Oakland Sunshine Ordinance and the Ralph M. Brown Act by five Councilmembers meeting to agree to hold a special meeting on June 13, 2013.	Staff is investigating	
2/8/2013	13-2	Marleen Sacks	City Attorney's Office	1/24/2013	Alleges a violation of the California Public Records Act and Oakland's Sunshine Ordinance.	Staff is investigating	H/M  3

\* Priority code is based on a dual determination: 1) level of priority (**H**igh, **M**edium or **L**ow, 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 (**S**mall, **M**edium, or **L**arge amount of time).

Date Rec'd	Case #	Complainant	Respondents	Date of Alleged Violation	Alleged Violation	Status	Priority*
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
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 3/1/10/7/10 and 7/27/10	Complaint alleges two contractors made impermissible campaign contributions to candidates in the Nov 2010 election (OCRA; §3.12.140)	Staff is investigating	H/L 4

Date Rec'd	Case #	Complainant	Respondents	Date of Alleged Violation	Alleged Violation	Status	Priority*
11-1-10	10-28	Ralph Kanz	Ala. Demo. Central Comm.; OakPAC	October 29, 2010	OCRA; §3.12.230 – Alleges 1) failure to include written disclosure required by OCRA and 2) failure to file late contribution and independent expenditure reports	Staff is investigating	H/M 3
10-13-10	10-26	Ralph Kanz	Jean Quan Floyd Huen	June 30, 2010 and ongoing	OCRA; §3.12.050; 3.12.090 – Alleges failure to report and include information regarding respondent's loans to own campaign	Staff is investigating	H/M 3
10-13-10	10-25	Ralph Kanz	Don Perata	June 30, 2010 and ongoing	OCRA; §3.12.090(A)(D) – Alleges campaign was given extension of credit of over \$1500 for more than 90 days	Staff is investigating	H/M 3
9/14/10	10-21	Jean Quan	Don Perata, Paul Kinney; California Correctional Peace Officers Association; Ronald T. Dreisback; T. Gary Rogers; Ed DeSilva; Richard Lee	Ongoing	OCRA violations – Alleges respondent campaign exceeded the voluntary expenditure limit during the November 2010 election	Staff is investigating	H/L 4
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

Date Rec'd	Case #	Complainant	Respondents	Date of Alleged Violation	Alleged Violation	Status	Priority*
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