

# **CITY OF OAKLAND**

## **Public Ethics Commission**



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TO: Public Ethics Commission  
FROM: Milad Dalju, Deputy Director  
DATE: March 23, 2018  
RE: Enforcement Program Update

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### **Summary of Cases**

As of March 23, 2018, the Commission has 35 open enforcement cases, each in various stages: 26 are being investigated, six are being mediated, one is set for an administrative hearing, and two are being presented to the Commission at its April 2, 2018, meeting. Additionally, three complaints are pending a decision by the Commission regarding alleged Sunshine Ordinance violations involving the Commission.

Since the last Enforcement Program Update on January 24, 2018, the following status changes occurred:

1. Case No. 14-09; *In the Matter of Oakland Police Department*: Staff closed this case pursuant to the Commission's decision on February 5, 2018.
2. Case No. 14-10; *In the Matter of Kaplan for Oakland City Council 2012, Kaplan for Oakland Mayor 2014, and Safe Streets and Local Jobs*: Staff completed its investigation, and the investigation summary and recommendation is pending Commission review.
3. Case No. 15-06; *In the Matter of Marc Weinstein*: Staff closed this case pursuant to the Commission's decision on February 5, 2018.
4. Case No. 16-01; *In the Matter of Michael Colbruno*: Staff completed its investigation, and the investigation summary and recommendation is pending Commission review.
5. Complaint No. 17-13; Staff completed its preliminary review of the allegations and dismissed the complaint because the allegations did not constitute a violation. (Attachment 1)
6. Complaint No. 18-04; Staff received this complaint on February 2, 2018, and is conducting a preliminary review of the allegations.

7. Complaint No. 18-05; Staff received this complaint on February 2, 2018, and is conducting a preliminary review of the allegations.
8. Complaint No. 18-06; Staff received this complaint on February 13, 2018, and is conducting a preliminary review of the allegations.
9. Complaint No. 18-07; Staff received this complaint on February 15, 2018, and is conducting a preliminary review of the allegations.
10. Complaint No. 18-09; Staff received this complaint on February 26, 2018, and is conducting a preliminary review of the allegations.
11. Complaint No. 18-10; Staff received this complaint on March 13, 2018, and is conducting a preliminary review of the allegations.

**In the Matter of Lynette Gibson McElhaney; Case No. 15-07**

Pursuant to the Commission's decision and instructions at the July 31, 2017, meeting, Staff is preparing for an administrative hearing and continuing its efforts to reach a settlement agreement with Councilmember McElhaney.

The administrative hearing is set for May 7 and 8, 2018, at the California Office of Administrative Hearings' Oakland Office.

**Current Enforcement Priorities**

Staff continues to prioritize cases based on the following priority factors: 1) the extent of Commission authority to issue penalties, 2) the impact of a Commission decision, 3) public interest, timing, and relevancy, and 4) Commission resources. As a result, investigations into allegations of violations of the Government Ethics Act and the Campaign Reform Act, for which the Commission has its greatest penalty authority, are prioritized ahead of all others. Sunshine-related complaints, for which the Commission has no penalty authority, take last priority behind complaints related to the Oakland Campaign Reform Act, the Government Ethics Act, and the Lobbyist Registration Act.

# CITY OF OAKLAND



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Public Ethics Commission  
Enforcement Unit

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February 13, 2018

Gene Hazzard



## **Re: PEC Complaint No. 17-13; Dismissal Letter**

Dear Mr. Hazzard:

On June 14, 2017, the City of Oakland Public Ethics Commission (PEC) received your complaint alleging that City Administrator Sabrina Landreth violated Section 2.20.120, subdivision (C), of the Oakland Sunshine Ordinance by participating in the City's employment negotiations with Anne Kirkpatrick for the Chief of Police position in 2016. After reviewing the Complaint, we have determined that the allegation does not constitute a violation of the Oakland Sunshine Ordinance and are therefore dismissing the Complaint.

Section 2.20.120, subdivision (C), of the Oakland Sunshine Ordinance prohibits a local body from discussing, during closed session, compensation or other contractual matters with an employee that has a direct interest in the outcome of the negotiations.

The Oakland Sunshine Ordinance defines "local body" as:

1. The Oakland City Council, the Oakland Redevelopment Agency, and the Board of Port Commissioners;
2. Any board, commission, task force or committee which is established by City Charter, chapter or by motion or resolution of the City Council, the Oakland Redevelopment Agency or the Board of Port Commissioners;
3. Any advisory board, commission or task force created and appointed by the Mayor and which exists for longer than a 12 month period; and
4. Any standing committee of any body specified in subsections (1)(2) or (3).

On January 26, 2017, the City Council's Rules and Legislation Committee (Rules Committee) considered a recommendation by City Administrator Landreth to pass a resolution authorizing her and the Mayor to execute an employment agreement with Ms. Kirkpatrick for the role of Chief of Police (City Administrator Recommendation). The proposed resolution included a specific salary to offer Ms. Kirkpatrick for the Chief of Police position and an increase in the Salary Schedule of the City Administrator "to ensure compaction issues do not occur." The Rules Committee scheduled the City Administrator Recommendation to be considered by the full

City Council at its February 7, 2017, meeting. According to the Rules Committee's agenda and minutes, it did not consider or discuss the matter during the closed session it held that day.

At its February 7, 2017, meeting, the City Council approved the City Administrator Recommendation for second and final reading at the City Council's February 21, 2017, meeting. According to the City Council's agenda and minutes, it did not consider or discuss the matter during the closed session it held that day.

At its February 21, 2017, meeting, the City Council rescheduled considering the City Administrator Recommendation. According to the City Council's agenda and minutes, it did not consider or discuss the matter during the closed session it held that day.

At its March 7, 2017, meeting, the City Council adopted the City Administrator Recommendation. According to the City Council's agenda and minutes, it did not consider or discuss the matter during the closed session it held that day.

Section 2.20.120, subdivision (C), of the Oakland Sunshine Ordinance prohibits the City Council, and its subcommittees, from discussing, during closed session, compensation or other contractual matters with an employee that has a direct interest in the outcome of the negotiations. However, as described above, a review of the City Council's meeting agendas and minutes indicate that the City Council did not consider the City Administrator Recommendation in closed session.

In addition, Section 2.20.120, subdivision (C), of the Oakland Sunshine Ordinance only applies to the actions of local bodies. Since the City Administrator is not a local body, it does not prohibit her from participating in salary negotiations, regardless of whether she has a direct interest in the outcome of the negotiations. Therefore, City Administrator Landreth did not violate Section 2.20.120, subdivision (C), of the Oakland Sunshine Ordinance by participating in the City's salary negotiations with Ms. Kirkpatrick.

Because City Administrator Landreth's alleged conduct does not constitute a violation of the Oakland Sunshine Ordinance, and there is no evidence that suggests that the City Council may have violated the Oakland Sunshine Ordinance, we are dismissing your complaint pursuant to the PEC's Complaint Procedures. The PEC's Complaint Procedures is available on the PEC's website.

Thank you for bringing this matter to our attention. If you have any questions regarding this matter, please feel free to contact me.

Sincerely,

Milad Dalju  
Deputy Director/Chief of Enforcement

cc: Sabrina Landreth, City Administrator