CITY OF OAKLAND
Public Ethics Commission

Jonathan Stanley, *Chair*
Barbara Green-Ajufo, *Vice-Chair*
Alaric Degrafinried
Alex Paul
Ai Mori
Richard Unger
Vacancy (Mayoral)

Daniel D. Purnell, Executive Director

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TO: Public Ethics Commission
FROM: Daniel Purnell
DATE: March 1, 2010

RE: A Report And Action To Be Taken Regarding Approval Of The Commission's Annual Report For 2009

Every year the Commission drafts and distributes an Annual Report that summarizes the significant activities and policy developments the Commission undertakes.

Attached for the Commission's review and comment is a draft Annual Report. The Commission is asked to approve the attached draft subject to any material comments or edits the Commission may wish to make.

Respectfully submitted,

Daniel D. Purnell
Executive Director

THE OAKLAND PUBLIC ETHICS COMMISSION
2009 ANNUAL REPORT

Composition

In November, 1996, the citizens of Oakland added Section 202 to the City Charter to establish the Oakland Public Ethics Commission. The Commission was created with the goal of ensuring "fairness, openness, honesty and integrity" in city government.

Membership on the Commission consists of seven Oakland residents. Three members are appointed by the Mayor and confirmed by the City Council. Four members are recruited and selected by the Commission itself. Each Commissioner may serve no more than one consecutive three-year term.

Jurisdiction And Duties

Oakland law requires the Commission to oversee compliance with Oakland's Campaign Reform Act (OCRA), conflict of interest code, code of ethics, Sunshine Ordinance, the Limited Public Financing Act, the Lobbyist Registration Act and 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 salaries for the Oakland City Council and to adjust those salaries up to five percent annually.

The Commission is authorized to conduct investigations, audits and public hearings, issue subpoenas, and impose fines and penalties to assist with its compliance responsibilities.

Organization, Staffing And Budget

The Commission currently maintains two standing committees: The Sunshine Committee, which deals with policy issues arising from the Oakland Sunshine Ordinance; and the Lobbyist Registration and Campaign Finance Committee, which devotes its time to matters involving Oakland's Lobbyist Registration Act and the Oakland Campaign Reform Act (OCRA). Both of these committees meet on an "as needed" basis.

The Commission is staffed by an Executive Director and Executive Assistant. Commission offices are located on the Fourth Floor of City Hall, One Frank Ogawa Plaza, Oakland, CA, 94612. A website for the Commission can be accessed from www.oaklandnet.com. The Commission meets on the first Monday of every month at 6:30 p.m. in City Hall. Its meetings are broadcast locally by KTOP, Oakland's cable television station.

In June, 2009, the Oakland City Council authorized a total budget of $267,550 for FY 2009-2010 for the Commission. The Office of the City Attorney continues to provide part-time legal support for Commission matters.

COMMISSION MEMBERS AND STAFF

The following persons served as Commissioners during 2009:

MARIO ANDREWS **(Mayoral appointee)**
Term: 1/22/07 - 1/21/10

Mario Andrews has lived in Oakland since 1981. He is an attorney specializing in criminal law in the Bay Area. He served two and half terms as a Commissioner with the Oakland Citizens Police Review Board where he was the Commission Chair for 2005. He also was on the Board of Directors for the East Oakland Youth Development Center from 1996 to 2005 where he was the Chair in 1999. Mr. Andrews helped start and has been on the Board of Directors for Scholar Athletes, Inc. a non-profit sports organization since 1992. Scholar Athletes, Inc. sponsors "Slam-N-Jam" Basketball AAU teams, leagues and tournaments and has sent several dozens students to play Division I College basketball and a few to the NBA. He has a wide range of experience having been an Assistant District Attorney, investigator, teacher and police officer.

ANDREW WIENER **(Commission appointee)**
Term: 1/22/07 - 1/21/10

Andrew Wiener is a trial lawyer and mediator whose private practice primarily consists of employment and real estate litigation. He is an arbitrator, mediator or neutral on various ADR panels, including the United States District Court ADR Program, Early Settlement Program of the San Francisco Superior Court, Mediation Services Program and Fee Dispute Program of the Bar Association of San Francisco, and the Homeless Shelter Arbitration Project of the San Francisco Department of Human Services. He earned his undergraduate degree at Brown University and his law degree from the University of Pacific's McGeorge School of Law.

BARBARA GREEN-AJUFO **(Commission appointee)**
Term: 1/22/08 - 1/21/11

Barbara Green-Ajufo has been a resident of Oakland since 1964. She is an epidemiologist who has worked in public health for more than 20 years at the local and federal levels. Ms. Green-Ajufo currently works for the Alameda County Public Health Department managing the HIV/AIDS Epi Surveillance Unit, Alcohol and Drug Program and HIV/AIDS-related special epidemiologic projects. In these roles, she ensures accurate, timely reporting of HIV and AIDS cases to the State Office of AIDS, ensures HIV and HCV testing, counsels and refers individuals to alcohol and drug treatment facilities, and conducts community-based research to improve HIV and sexually transmitted disease rates. Ms. Green-Ajufo has a long-standing commitment to improving the health of women and infants. In 1995, she served as an Epidemic Intelligence Service (EIS) Officer at the Centers for Disease Control and Prevention (CDC), Atlanta, GA. Her research there focused on the roles of race, racial-esteem and racism on

reproductive health outcomes and the role of race/ethnic-specific research in explaining the gap in disease disparity. She has worked as an adjunct professor, published a number of articles and presented at a number of national and international conferences on a range of topics. Ms. Green-Ajufo previously served on Berkeley Women's Health Collective Board and is a current board member of Youth Cultural Learning Center. She received a B.S. in Biological Sciences from the University of California, Irvine and has two public health degrees from the University of California, Berkeley: a Masters of Public Health (MPH) in Health Planning, Policy, and Administration and a Doctorate of Public Health (DrPH) in Epidemiology. Outside of the office, she enjoys traveling and experiencing the cultures of the world with her son and friends.

JONATHAN STANLEY **(Commission appointee)**
Term: 1/22/08 - 1/21/11

Jon Stanley formerly served as the Executive Director of the San Francisco Bay Area Water Emergency Transportation Authority (WETA). He is the former CEO of the Aircraft Carrier Hornet Foundation which operates the USS Hornet Museum in Alameda. He is a registered professional engineer and has worked for several Bay Area engineering and software firms over the past 25 years prior to joining the Museum. His past project assignments were located all across the United States and Canada. He also spent three years as a staff member of the Lawrence Berkeley Laboratory. Mr. Stanley earned his undergraduate degree at the U.S. Naval Academy followed by service as an officer in the nuclear submarine force. He also obtained a graduate degree in Nuclear Engineering from UC Berkeley. He is currently a “Blue and Gold Officer” for the Naval Academy, providing admissions counseling for potential applicants. Mr. Stanley has lived in Oakland for 28 years. He is a Commission appointee.

ALARIC DEGRAFINRIED **(Mayoral appointee)**
Term: 1/22/08 - 1/21/11

Alaric Degrafinried is a Contract Compliance Officer for the City & County of San Francisco’s Human Rights Commission (HRC). In this role, Mr. Degrafinried is responsible for implementing, monitoring, and enforcing San Francisco’s Small, Local Business Enterprise (LBE) program which forbids discrimination in contracting and mandates that economically disadvantaged businesses located within San Francisco are eligible for certification, bid/rating discounts and subcontracting opportunities when bidding on City contracts. Prior to joining HRC, Mr. Degrafinried worked as a Finance Manager for General Electric (GE), followed by two-year assignment in Haiti as a Peace Corps Volunteer. He later served a two-year Equal Justice Works Fellowship with the National Housing Law Project (NHLP) in Oakland. Mr. Degrafinried earned his undergraduate degree at the University of Colorado and his law degree from the Santa Clara University School of Law.

ALEX PAUL **(Commission Appointee)**
Term: 1/22/09 - 1/21/12

Alex Paul is an attorney and has worked for several Bay Area companies over the past 10 years. Mr. Paul earned his law degree at the University of Notre Dame. He also obtained a graduate degree in business administration from the University of Illinois at Springfield. Mr. Paul has created Ethics courses that have been utilized by thousands of workers nationwide. At law school, Mr. Paul was awarded by the Dean of the law school for the highest grade given in an Ethics class. As an attorney and one that works for a public company, he is also involved in investigating Code of Conduct violations and understands the importance of compliance training and education. Mr. Paul has lived in Oakland for 7 years. He is a Commission appointee.

AI MORI **(Mayoral appointee)**
Term: 1/22/09 - 1/21/12

Ai Mori is a staff attorney at the Court of Appeal in San Francisco. She earned her undergraduate degree from UC Berkeley and her law degree from UC Hastings College of the Law. Prior to joining the Court of Appeal, she practiced employment litigation and family law and was certified by the State Bar of California as a specialist in family law. She serves on the Board of Directors of Asian Women's Shelter, a domestic violence shelter in San Francisco, and is a member of the Civil Rights Committee of the Asian American Bar Association of the Greater Bay Area. She has also volunteered as a judge at the McCullum Youth Court in Oakland.
Ms. Mori is a Mayoral appointee.

Commission Staff

DANIEL D. PURNELL
EXECUTIVE DIRECTOR

Daniel Purnell was hired as the Executive Director to the Oakland Public Ethics Commission in April, 2000. He is a former civil litigation attorney with a background in employment, contract, land use and environmental law. Prior to joining the California Bar, Mr. Purnell served as manager of media relations for Pacific Telesis Group and Bechtel Group, Inc. Mr. Purnell is a former Mayor and Councilmember from the City of Pinole, California.

TAMIKA THOMAS
EXECUTIVE ASSISTANT

Tamika Thomas was hired in January, 2007, as Executive Assistant to the Public Ethics Commission. She comes to the Commission with a background as a paralegal assistant for large litigation firms. Ms. Thomas completed her law degree at John F. Kennedy University School of Law's night program.

SIGNIFICANT ACTIVITIES DURING 2009

Lobbyist Registration

In June, 2002, the City Council adopted the "Oakland Lobbyist Registration Act." This 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. The reports require disclosure of a lobbyist's clients or employer, as well as the subject of any lobbying. The Commission is responsible for administering and enforcing the Act.

As of December 31, 2009, 36 lobbyists had registered with the City representing a total of 40 registered clients. Commission staff maintains on the Commission's website a list of registered lobbyists and their clients. Quarterly reports are also posted on-line to disclose: a) the lobbyists' clients; b) the subject of governmental action lobbied upon; c) who was lobbied; 4) the client's position on the item being lobbied; 5) campaign contributions solicited by a lobbyist; and 6) employment opportunities arranged by a lobbyist.

In conjunction with its duties under the Act, the Commission publishes and widely distributes "A Guide To Lobbyist Registration" to inform the regulated community about its duties under the Act.

During 2009, the Commission expended a substantial amount of Commission and staff time developing proposed amendments to the Act. The proposed amendments include potential changes to the definition of "lobbyist", two additional exceptions from the definition of "lobbyist", and proposals to authorize the imposition of registration fees and late penalties, as appropriate. The Commission will continue its deliberation of these proposed amendments in 2010.

Oakland Campaign Reform Act (OCRA)

The Oakland Campaign Reform Act (OCRA) regulates campaign contributions and expenditures in connection with local elections. It establishes voluntary expenditure ceilings for campaigns for local office and regulates the amount persons may contribute to a local candidate. Contribution amounts depend on whether the candidate has accepted the voluntary expenditure ceilings. OCRA also regulates campaign contributions by contractors who are in the process of negotiating certain contracts with the City.

The Commission continues to publish and distribute its "Guide To The Oakland Campaign Reform Act," a section-by-section analysis for political candidates, treasurers and other interested parties. This Guide is now part of the package of materials that candidates receive when they take out nomination papers to run for Oakland office. Commission staff devotes considerable time to responding to inquiries from candidates, contributors and the public regarding the ordinance.

During 2009, the Commission's Lobbyist Registration and Campaign Finance Committee held a series of special meetings to review a section-by-section analysis of OCRA and to develop a package of specific proposed amendments based on that analysis. The Commission is expected to begin its review of these specific amendments in 2010.

Oakland Sunshine Ordinance

The Oakland Sunshine Ordinance is a local ordinance that was enacted in 1997 to supplement the California Brown Act and Public Records Act. The goal of the Sunshine Ordinance is to provide greater access to Oakland meetings and records.

During 2009, the Commission's Sunshine Committee convened meetings to discuss and receive public comment on several potential policy areas pertaining to the Sunshine Ordinance. Those areas include expanded meeting disclosure for certain non-profit organizations, mandatory open government training for key City employees and officials, remedies for Sunshine Ordinance violations, and the development of a City-wide record retention policy. Based on its review, the Committee developed a package of specific proposed amendments to the Sunshine Ordinance which the Commission is expected to review in 2010.

Limited Public Financing Act

The Oakland City Council adopted the Limited Public Financing Act in December, 1999. The highlights of the Public Matching Fund program are:

- The City will match the first $100 of every qualified campaign contribution received and deposited within 180 days before the election. Eligible contributions must originate from donors whose residence or business is located within the City of Oakland. The maximum amount a candidate can receive is 30 percent of Oakland's voluntary expenditure ceiling for the office being sought.

- Candidates must first raise in Oakland campaign contributions an amount at least equal to 5 percent of the voluntary expenditure ceiling for the office being sought to become eligible to receive public matching funds. Once eligible, candidates are entitled to receive accelerated, lump-sum grants of matching funds.

- Matching funds are currently available only to candidates for district City Council seats.

The Commission entered FY 2009-2010 with a balance of $250,000 in the Election Campaign Fund. Due to a significant budget shortfall, it is uncertain whether the matching fund program will be funded sufficiently for use in the November, 2010, election.

Complaint Administration

Complaints are administered pursuant to the Commission's General Complaint Procedures. Each formal complaint is reviewed by the Executive Director who conducts a preliminary investigation and produces a staff report. Each report is considered during an open public meeting at which time the Commission decides whether to dismiss the complaint, direct further investigation, explore settlement with the respondent, or proceed to a formal administrative hearing on the merits of the complaint.

During 2009, the Commission received a total of 16 formal complaints. There were 20 complaints filed in 2008, nine complaints filed in 2007, 23 complaints filed in 2006, and 11 complaints filed in 2005. Of the 16 formal complaints filed with the Commission in 2008, there were three alleged violations of the Sunshine Ordinance, two alleged violations of the Lobbyist Registration Act, four alleged violation of the City's conflict of interest code, one alleged violation of the City Council's Code of Ethics, one alleged violation of the City's Anti-Nepotism and Cronyism Ordinance, and eight allegations of mis-use of City resources. Of the 16 complaints filed in 2009, 11 have been settled or dismissed and five are pending Commission review at the time of this writing. The Commission has reserved jurisdiction over four complaints dating back to 2002.

Compensation For City Council Members

In March, 2004, Oakland voters adopted Measure P by a vote margin of 70 to 30 percent. Oakland City Charter Section 202(c) now authorizes the Public Ethics Commission to annually adjust City Council salaries "by the increase in the consumer price index over the preceding year." The Commission may also adjust salaries beyond the increase in the consumer price index up to a total of five percent. Any annual increase beyond five percent must be approved by the voters.

At its regular meeting of June 1, 2009, the Commission adopted a resolution which approved an 0.8 percent salary increase for the Office of City Councilmember effective as of the first pay period of FY 2009-2010. The increase was based on the change in the consumer price index over the preceding year.

Pursuant to Measure P, the Commission will undertake its required review of City Council salaries again in 2010.

Education, Public Outreach And Affiliations

The Commission currently maintains an active membership in COGEL, (Council on Governmental Ethics Laws), a national organization of local, state and federal ethics agencies.

The Commission's webpage, accessed through "oaklandnet.com", offers links to all legislation in the Commission's jurisdiction, past and current agendas with related

materials, Commission publications, public matching funds forms, lobbyist registration forms, information on the Commissioners, and notification of recruitment for vacancies when they occur.

The Commission maintains and regularly distributes its publications of:

- How To Notice A Public Meeting And Respond To Requests For Public Information
- A Guide To Lobbyist Registration
- How To Apply For Limited Public Matching Funds
- A Guide To Oakland's Campaign Reform Act
- A Handbook For Members Of Oakland Boards And Commissions