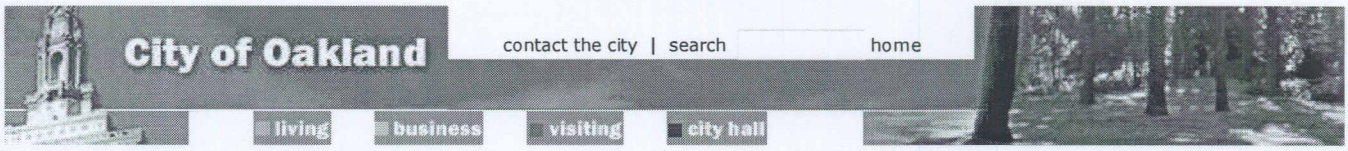

For Official Use Only

City of Oakland

Public Ethics Commission

Stamp Date/Time Received:

COMPLAINT FORM

Complaint Number: 09-01

Please Type or Print in Ink and Complete this Form.

This complaint concerns a possible violation of: (please check all that apply)

FILED
PUBLIC ETHICS COMMISSION
OAKLAND
2009 JAN 22 P 4:05

[ ] The Oakland Sunshine Ordinance, California Public Records Act or Brown Act. (Access to public meetings or documents.)

[ ] Oakland Campaign Reform Act

[✓] Oakland City Council's Rules of Procedure/Code of Ethics

[ ] Oakland Limited Public Financing Act

[✓] Oakland Conflict of Interest regulations

[ ] Oakland Lobbyist Registration Act

[ ] Oakland False Endorsement In Campaign Literature Act

Item E-1
Date 3/2/09
Page 7 of 27

[ ] I am/We are not sure which specific law, ordinance or regulations apply. However, I am/We are requesting that the Ethics Commission determine if

ATTACHMENT 1

my/our complaint is within its jurisdiction.

The alleged violation occurred on or about the following date(s)

Late 2007 (Appointment to CEDA Dir.
June 2008 (Appointment to City Admin)

The alleged violation occurred at the following place:

See attached

Please provide specific facts describing your complaint. (Or attach additional pages as necessary.)

See attached

The persons you allege to be responsible for the violation(s) are:

Mayor Ron Dellums

Any witnesses who were involved and/or who can provide additional information are: (Please indicate names and phone numbers, if available.)

PLEASE NOTE:

There may be other laws that apply to the violation(s) you are alleging. The time limit to commence a legal proceeding to enforce those laws may not be extended by filing this complaint. You should contact an attorney immediately to protect any rights available to you under the law.

By filing this complaint with the Public Ethics Commission it, and all other materials submitted with it, becomes a public record available for inspection and copying by the public.

NAME: CARLOS PLAZOLA PHONE NO.(Day):( ) _____

ADDRESS: _____ PHONE NO.(Eve.):( ) _____

CITY: Oakland STATE: CA ZIP: 94601

FAX NO.: ( ) _____

Item E-1
Date 3/2/09
Page 8 of 27

ATTACHMENT 1

E-MAIL on file

PLEASE RETURN THIS FORM TO:

Public Ethics Commission
One Frank Ogawa Plaza, 4th floor
Oakland, CA 94612

Phone: (510) 238-3593
FAX:(510) 238-3315

Back

Item E-1
Date 3/2/09
Page 9 of 27

ATTACHMENT 1

January 22, 2009

Mr. Dan Purnell
Director, Public Ethics Commission
1 Frank Ogawa Plaza
Oakland, CA 94612

RE: Filing of Complaint against Mayor Ron Dellums for Acts of cronyism by appointing an unqualified person, Dan Lindheim, as Interim City Administrator, as well as Interim Director of Economic Development, based on a 25-year political relationship, irrespective of Mr. Lindheim being unqualified for both positions.

Background Statement:

Oakland residents deserve excellent leadership at all levels, and in all departments. Given the challenges of the worsening economy, high crime rates, and increasing budget deficits, there have been few other time in our history when we so desperately needed effective leadership, particularly in "Director" and "Administrator" positions. Our greatest hope for making a positive and smooth recovery from the economic crisis is to have excellent and proven leadership in these positions. Without strong leadership, the likelihood that Oakland will suffer more dire consequences and remain in a state of prolonged budget deficits is increased. Our residents cannot, and should not, have to face these circumstances.

Mr. Lindheim served as Mr. Dellums' legislative aide in Congress for over 20 years, as a policy person at the World Bank, and has also run a small business. But he does not have anywhere close to "12 to 15 years of senior level executive management experience preferably in a large sophisticated diverse urban governmental organization" (*a primary qualification excerpted from the Mayor's own job description for the City Administrator position)*.

While serving as a council aide for almost seven years, I observed that the most important job a mayor can do is hire great administrators and department heads. One of the reasons that Jerry Brown was so successful at achieving his goals of attracting downtown housing, building two pioneering charter schools (School for the Arts and the Oakland Military Institute), reducing crime, and growing Oakland's budget was because he was surrounded by national leaders in municipal management; people like Robert Bobb, known as a top leader in his field of government administration and management; Claudia Cappio, a top administrator in economic development; and Raul Godinez, Oakland's current Public Works Director who is winning awards for his innovative management efforts.

In turn, Robert Bobb surrounded himself with highly competent staff assistants, with advanced degrees in public administration, who were highly motivated and ambitious; people like Edward Reiskin (then his deputy administrator) who is now Director of Public Works in San Francisco, and Rosie Rios (then Director of Economic Development) who now works for the MacFarlane Partners, an investment group that manages over 11 billion dollars in assets.

People often forget that Oakland had relatively low crime rates in 2003, 2004, 2005, *even though our police department was severely understaffed at the time*. In 2004, for example Oakland had 82 homicides and less than 730 officers. This success was based on the fact that we had excellent management that demanded results from Oakland's workforce.

ATTACHMENT 1

Much of this success began to deteriorate after Robert Bobb left, and then Mrs. Rios, and then Mr. Reiskin, and finally Mrs. Cappio. As a result, the management of our city is in shambles, and no restructuring plan will save us. The only thing that will save us is decisive leadership, which Mayor Dellums is incapable of; and effective management, which Mr. Lindheim has no experience in.

Oakland has an opportunity to neutralize the ineffective leadership of the Mayor by filling the key positions of the city--City Administrator, Director of CEDA, Fire Chief, Police Chief--with proven leaders in their respective fields.

The appointment of Dan Lindheim as Interim City Administrator and interim Director of CEDA was a slap-in-the-face to Oaklanders in that it exemplifies the worst kind of crony-based governing, where it is more important to reward your friends, then it is to deliver excellent services to residents. Making Mr. Lindheim the permanent City Administrator, particularly at a time when Oakland is in crisis, would be unconscionable.

Oakland residents must demand excellent management of its city.

Complaint:

Acts of cronyism, by Mayor Dellums, by appointing an unqualified person, Dan Lindheim, as Interim City Administrator and Interim Director of Economic Development based on a 25-year political relationship, irrespective of Mr. Lindheim being unqualified for both positions.

Facts:

On December 9th, the Oakland City Council voted unanimously to pass Ordinance No. 12908, "***An Ordinance Amending Title 9 of the City of Oakland Municipal Code by Adding A New Chapter, 2.38, Entitled Anti-Nepotism Policy, to Prevent Nepotism and Cronyism in Hiring and Administration.***"

Section 2.38 of the Ordinance defines "Cronyism" as "*participating in any employment decision that may be viewed as a conflict of interest, such as one involving a close friend, a business partner, and/or professional, political, or commercial relationship, that would lead to preferential treatment or compromise the appearance of fairness.*"

Sitting next to Councilmember Nadel, the sponsor of the Cronyism amendment, as the council passed this Ordinance unanimously, was Mr. Dan Lindheim, Interim City Administrator and Interim Director of Economic Development, a 30 year political ally of Mayor Dellums, who lacks the qualifications, identified in the Mayor's own job description for the City Administrator's Position, to serve as Interim City Administrator or Interim Director of Economic Development.

Merriam-Webster defines Crony as "*a close friend especially of long standing*".

Merriam-Webster defines Cronyism as "*partiality to cronies especially as evidenced in the appointment of political hangers-on to office without regard to their qualifications*".

Dan Lindheim is certainly a "political hanger-on" of Mayor Dellums, having served as his political aide in Congress since the 1970's.

ATTACHMENT 1

Since it can easily be established that Mr. Lindheim has a long political relationship with Mr. Dellums, the litmus test of whether or not Mr. Lindheim's appointment as Interim City Administrator constitutes Cronyism is whether or not Mr. Lindheim is qualified to even apply for the position under Mayor Dellums own list of qualifications posted in the job announcement for the position (Attachment A). In fact, it states:

> ***Qualifications***
> *"The City Administrator must be a dynamic, creative and results oriented executive capable of working effectively in a large, diverse and complex Mayor-Council form of government. The Mayor is seeking a City Administrator who can assist in implementing his vision. Candidates must be team oriented and able to work well with all city elected officials, a diverse staff, a highly active and diverse community and numerous business, civic and neighborhood organizations. A generalist background is desirable with strong fiscal, administrative management, and economic/community development expertise. Twelve (12) to fifteen (15) years of senior level executive management experience preferably in a large sophisticated diverse urban governmental organization. A Bachelor's degree from an accredited college or university in public or business administration or a related field is required with an advanced degree being highly desirable."*

Mr. Linhdeim does not have "12 to 15 years of senior level executive management experience preferably in a large sophisticated diverse urban governmental organization." He has been a political aide, an economist at the World Bank, and ran his own small business. But he has never had "senior level executive management experience in a large sophisticated diverse urban governmental organization".

Furthermore, the January 2009 Strategic Planning Report to the Mayor by The PFM Group clarifies that the Charter of Oakland has the following language relative to the Mayor's appointment of the City Administrator:

"The Mayor shall appoint a City Administrator, subject to the confirmation by the City Council, who shall be the chief administrative officer of the City. He shall be a person of demonstrated administrative ability with experience in a responsible, important executive capacity and shall be chosen by the Mayor solely on the basis of his executive and administrative qualifications."

Therefore, the appointment of Mr. Linhdeim as Interim City Administrator and as Interim Director of Economic Development, and any potential consideration of appointing him as permanent City Administrator can only be construed as "Cronyism", an act that the City Council, led by Councilmember Nadel, unanimously voted to prohibit in the City of Oakland hiring procedures in December 2008.

Action Requested:

I formally request that the Public Ethics Commission, the Director of Personnel, and the City Attorney immediately begin investigating whether the Mayor's appointment of Mr. Lindheim as Interim City Administrator and Interim Director of Economic Development constitutes Cronyism, and whether the possible appointment of Mr. Lindheim to Permanent City Administrator would also constitute Cronyism.

Respectfully,

Carlos Plazola
Oakland Resident

ATTACHMENT 1

ATTACHMENT A
City of Oakland, California
City Administrator
Position Profile

The City of Oakland is the metropolitan focal point of the exciting East Bay Area and the 8th largest city in California with a population of 420,183. The City boasts a rich tapestry of many races and cultures, and is the most integrated city in the United States. Oakland is the administrative headquarters for Alameda County, the regional seat for the federal government, the district location of primary state offices and the center of commerce for the East Bay.

The Mayor and City Council are the governing bodies of the City. The Mayor, eight (8) City Council Members, City Attorney and City Auditor are each elected to four year terms. In 1998, the citizens of Oakland passed Measure X which changed Oakland from a Council-Manager to a Mayor-Council form of government. The Council has legislative authority and the executive authority for running the City is vested with the Mayor. Mayor Ronald V. Dellums serves as the chief executive officer for the City and appoints a City Administrator, subject to City Council confirmation, who serves as the chief operating officer and administers the day to day affairs of the City under Mayor Dellums' and City Council direction.

The focus of Mayor Dellums' vision to transform Oakland as a 21st Century Model City is:

- To foster sustainable economic growth and development for the benefit of Oakland and Oakland residents;
- To create a sense of hope and empowerment, especially among the youth;
- To give Oakland residents the opportunity to lead a healthy life; and
- To deliver City services in an open, transparent, effective and efficient manner.

The Position

The City Administrator reports to the Mayor and is responsible for carrying out the policies and directives of the Mayor and City Council in accordance with the City's charter, ordinances, rules and regulations. The City Administrator provides policy advice to the Mayor and City Council, and direct leadership to City staff to meet the Mayor's and Council's goals and objectives. The City Administrator, under the guidance and leadership of the Mayor and City Council directives, administers a municipal government with a two-year budget of approximately $2.1 billion and 3,676 employees. As the City's chief operating officer, the City Administrator provides leadership and direction in formulating strategic, community and economic plans and programs; developing management policies and procedures; formulating the City's budget; establishing performance standards and measures; evaluating service contracts, programs and employee effectiveness; conducting organizational analysis; monitoring revenues and expenditures; and ensuring that the City has sound management, fiscal and personnel systems.

Major Duties and Responsibilities

- Under the direction of the Mayor and City Council, the City Administrator ensures that policy decisions are implemented efficiently.
- Works closely with the Mayor to fully incorporate the "Mayor Council" form of government into city operations and structures.
- Assists the Mayor in establishing and prioritizing goals, strategies and time lines.
- Works with City Council; attends Council meetings; staffs Council Committees; prepares and presents reports to the Council; provides information, and makes recommendations regarding policies and

programs; and implements Council mandates.

• Directs the development and preparation of the City's annual budget under the direction of the Mayor for submission to the Council. Directs the preparation, administration and evaluation of all agency/department budgets to ensure cost-effective operations and sound resource management, while maintaining high levels of service to the community. Advises the Mayor and Council regarding financial condition and needs of the City.

• Directs the City's financial affairs and recommends to the Mayor and Council appropriate action to ensure financial stability, asset protection, fiscal controls, cash management, strong bond ratings, and financial reporting to meet all local, state and federal legal and regulatory requirements.

• Develops comprehensive performance based evaluation systems for all agencies/departments, programs and staff to ensure the City's goals and objectives as outlined by the Mayor are being achieved.

• Directs the City's personnel and labor relations activities to ensure selection, development and retention of a productive, well trained, highly motivated, customer service focused workforce. Ensures a strong labor/management collaborative environment throughout the City that stresses cooperation with all employee groups. Ensures equal opportunity in hiring and promotional practices in accordance with applicable city, state and federal laws and regulations. Appoints, assigns, reassigns, disciplines and removes all directors or heads of departments and all employees under the jurisdiction of the City Administrator.

• Works with all communities in the City to strengthen neighborhoods, improve city services and infrastructures, and respond to the diverse needs of individuals and groups. Ensures that Community Oriented Policing is the cornerstone of the City public safety programs in conjunction with various youth and family centered programs.

• Directs economic, community and job development efforts aimed at job creation, attracting new businesses, marketing to key industries, retaining and strengthening existing businesses, increasing the City's tax base and creating viable economic opportunities consistent with the City's goal of job development, job training and sustainable economic development.

• Works with the Mayor and Council to promote the interests of the City at federal, state and regional levels.

• Directs the City's contracting and purchasing activities to ensure best practices are utilized and that all contracts are awarded on a fair and competitive basis with strong emphasis on contracting with MBE's/WBW's and local businesses. Makes recommendations to the Council in connection with the awarding of public contracts to ensure that all City contracts under the City Administrator or the Council are faithfully performed.

• Oversees the City's information technology activities to increase operational effectiveness, cost savings and access to reliable, timely information.

• Evaluates the efficiency and effectiveness of business services and evaluates administrative and executive personnel.

• Assumes other duties as assigned by the Mayor and mandated by the City Charter.

Qualifications

The City Administrator must be a dynamic, creative and results oriented executive capable of working effectively in a large, diverse and complex Mayor-Council form of government. The Mayor is seeking a City Administrator who can assist in implementing his vision. Candidates must be team oriented and able to work well with all city elected officials, a diverse staff, a highly active and diverse community and numerous business, civic and neighborhood organizations. A generalist background is desirable with strong fiscal, administrative management, and economic/community development expertise. Twelve (12) to fifteen (15) years of senior level executive management experience preferably in a large sophisticated diverse urban governmental organization. A Bachelor's degree from an accredited college or university in public or business administration or a related field is required with an advanced degree being highly desirable.

Key Attributes:

• Track record of outstanding accomplishments and superior performance including excellent

judgment and decision making skills.

• Exceptional interpersonal and communication skills; straightforward and candid, yet flexible. Good listening skills. Ability to be firm, yet cooperative and approachable. Able to interact with people at various levels, and of diverse ethnic, social, economic and political backgrounds; outgoing personality; and friendly demeanor.

• Creative, intelligent, innovative and results oriented with excellent problem solving skills and a record of successfully implementing organizational change. Strong strategic skills. Willing to take risks to advance organizational objectives.

• Strong analytical skills and the ability to recommend alternative courses of action in a thorough, logical, objective, concise and accurate fashion thus enabling the Mayor and other elected officials to make informed decisions. Seeks to facilitate not manipulate decision making process. Calm under pressure, yet assertive and self-confident.

• Excellent negotiating skills and the ability to represent the interests of the City. Skilled in working with represented and non-represented employees. Politically astute.

• Strong coaching, mentoring and nurturing skills. Comfortable surrounding themselves with people that will challenge them as well as conventional approaches. Strong team builder with the ability to attract talent to the City.

• High standards of personal and professional ethics, honesty and integrity. Ability to gain trust quickly with a sense of character.

• Outstanding sense of personal accountability and highly motivated to succeed.

Selection Process:

Candidates for this position will initially be evaluated by The PFM Group and The Hawkins Company. The most qualified individuals will be invited to participate in the next phase of the selection process. We will begin the interviewing process as soon as we have a pool of highly qualified candidates. To be considered for this outstanding opportunity, individuals should submit a resume and cover letter electronically, **as soon as possible**, Bill Hawkins, The Hawkins Company, 6080 Center Drive, 6th Floor, Los
Angeles, CA 90045 bill@thehawkinscompany.com For additional information or questions, please contact
Bill Hawkins at 310-242-5672.

ATTACHMENT 1