February 5, 2009

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

Dear Mr. Purnell,

I hereby amend my complaint submitted to you on 1/22/09 based on the following new facts:

1. Mayor Dellums did, indeed, appoint Mr. Lindheim as City Administrator, therefore I amend my complaint based on this fact.
2. The recent City Attorney's clarification of the relationship between the City Charter and the Cronyism Ordinance (see attached).

I hereby amend my complaint as follows:

Complaint: The appointment of Dan Lindheim as City Administrator by Mayor Dellums is a conflict of interest that is a violation of the Article V, Section 500 of the Oakland City Charter, which states: "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."

Facts: The Mayor issued a job announcement with the following language detailing the minimum job qualifications: "*Twelve (12) to fifteen (15) years of senior level executive management experience preferably in a large sophisticated diverse urban governmental organization*."

Every applicant who read this job announcement was informed, through this announcement, that in order for them to even apply they needed 12 to 15 years of senior level management experience. It is likely that this announcement was read by some individuals who had only five years of experience. Perhaps it was read by some who had 10 years experience. It is likely that many people did not apply because they did not meet this minimum requirement.

The Charter states that the Mayor must appoint the administrator *solely* on the basis of his executive and administrative qualifications (*emphasis added*). That the mayor informed all interested applicants (though the job announcement) that his perspective of being qualified

meant a minimum 12 to 15 years of senior level executive management experience, and yet he appointed someone with less only 7 months experience, shows that he did not base his decision “solely on the basis of his executive and administrative qualifications”, and his decision was therefore based on something else, **creating a conflict of interest where the mayor made a decision that was in conflict with his responsibility to the residents of Oakland based on the requirements in the Charter, because of his pre-existing relationship to Mr. Lindheim.**

The Public Ethics Commission is tasked with the responsibility of investigated matters of conflict of interest in the city.

Our assessment of the by-laws of Public Ethics Commission, Section 7, Number 3 gives jurisdiction to the Public Ethics Commission to oversee compliance with conflict of interest regulations.

Additionally, the mission statement of the Public Ethics Commission directs the Commission to ensure that city officials understand their obligations with respect to state and local laws that are intended to assure fairness, openness, honesty and integrity in government (#3).

Section 7, number 10 empowers the public ethics commission to make recommendations to city council regarding the adoption of additional penalty provisions for violation of local ordinances and local regulations related to conflicts of interest.

I request that the Public Ethics Commission consider the implications of the mayor’s decision to base his decision on something other than solely the qualifications of the applicant and what this means for other future appointments, and to consider actions to remedy this decision.

Carlos Plazola

Oakland Resident