

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Teleconference
Monday, December 7, 2020
6:30 p.m.



Commissioners: James E.T. Jackson (Chair), Jill M. Butler (Vice-Chair), Avi Klein, Michael MacDonald, Janani Ramachandran, Joseph Tuman and Jerett Yan

Commission Staff to attend: Whitney Barazoto, Executive Director; Suzanne Doran, Lead Analyst – Civic Technology and Engagement; Kellie Johnson, Enforcement Chief; Simon Russell, Investigator

City Attorney Staff: Trish Shafie, Deputy City Attorney

PUBLIC ETHICS COMMISSION (PEC or COMMISSION) MEETING

NOTE: Pursuant to the Governor’s Executive Order N-29-20 and City of Oakland Emergency Order dated March 23, 2020, suspending the Sunshine Ordinance, all members of the Commission and participating PEC staff will join the meeting via phone/internet audio conference, and the following options for public viewing and participation are available:

- **Television:** KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99, locate City of Oakland KTOP – Channel 10
- **Livestream online:** Go to the City of Oakland’s KTOP livestream page here: <https://www.oaklandca.gov/services/ktop-tv10-program-schedule> click on “View”
- **Online video teleconference:** Click on the link below to join the webinar: <https://us02web.zoom.us/j/88171471481?pwd=ODIQVFFUeVRsZUtHdFU3YU5XcHVadz09>
Password: 674732
 - To comment by online video conference, click the “Raise Your Hand” button to request to speak when Public Comment is being taken on an eligible agenda item. You will then be unmuted, during your turn, and allowed to participate in public comment. After the allotted time, you will then be re-muted. Instructions on how to “Raise Your Hand” is available at: <https://support.zoom.us/hc/en-us/articles/205566129> - Raise-Hand-In-Webinar.
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US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592
Webinar ID: 881 7147 1481
International numbers available: <https://us02web.zoom.us/j/88171471481>
 - To comment by phone, please call on one of the above listed phone numbers. You will be prompted to “Raise Your Hand” by pressing *9 to request to speak when Public Comment is being taken on an eligible agenda item. You will then be unmuted, during your turn, and allowed to make public comments. After the allotted time, you will then be re-muted. Instructions of how to raise your hand

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by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663>
- Joining-a-meeting-by-phone.

Members of the public may submit written comments to ethicscommission@oaklandca.gov. If you have any questions about how to participate in the meeting, please email ethicscommission@oaklandca.gov before or during the meeting.

PEC MEETING AGENDA

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

ACTION ITEMS

4. **Approval of Commission Meeting Draft Minutes.**
 - a. November 2, 2020 Regular Meeting Minutes ([Meeting Minutes](#))
5. ***In the Matter of the City of Oakland Department of Human Services (Case No. M2017-12).***
On June 1, 2017, the Commission received a request for mediation from the Requestor that alleged that the City of Oakland Department of Human Services failed to provide responsive documents to a public records request. The Requestor initiated his public records request on April 25, 2017, seeking copies of all Measure Z and Measure D grant proposals from 2012-2019, consisting of roughly 450 proposals, each with dozens of attachments. Commission staff initiated the mediation process on June 5, 2017, and continued to mediate through April 19, 2019, when the Department provided the final batch of responsive documents to the Requestor. Staff recommends that the Commission close the mediation without further action. ([Mediation Summary](#))

DISCUSSION ITEMS

6. **Limited Public Financing Program Implementation 2020.** Commission staff provides an overview of the Limited Public Financing Program utilization for the November 2020 Election. ([Staff Report](#); [Limited Public Financing Act](#))
7. **Reports on Subcommittees and Commissioner Assignments.** Commissioners may discuss subcommittee assignments, create a new subcommittee, or report on work

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done in subcommittees since the Commission’s last regular meeting. Commissioners may also discuss assignments, efforts, and initiatives they undertake to support the Commission’s work. Current or recent subcommittees include the following:

- a. **Sunshine Review Subcommittee** (*ad hoc*/temporary, created on May 8, 2020)
– Michael MacDonald (Chair), Jill Butler and Joe Tuman

INFORMATION ITEMS

- 8. **Disclosure and Engagement.** Lead Analyst Suzanne Doran provides a report of recent education, outreach, disclosure and data illumination activities. ([Disclosure Report](#))
- 9. **Enforcement Program.** Enforcement Chief Kellie Johnson reports on the Commission’s enforcement work since the last regular Commission meeting. ([Enforcement Report](#))
- 10. **Executive Director’s Report.** Executive Director Whitney Barazoto reports on overall projects, priorities, and significant activities since the Commission’s last meeting. ([Executive Director’s Report](#))

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.

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.oaklandca.gov/pec.

11/25/2020

Approved for Distribution

Date



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DRAFT

Commissioners: James E.T. Jackson (Chair), Jill M. Butler (Vice-Chair), Avi Klein, Michael MacDonald, Janani Ramachandran, Joseph Tuman and Jerett Yan

Commission Staff to attend: Whitney Barazoto, Executive Director; Suzanne Doran, Lead Analyst – Civic Technology and Engagement; Kellie Johnson, Enforcement Chief; Simon Russell, Investigator

City Attorney Staff: Trish Shafie, Deputy City Attorney

PEC MEETING MINUTES

1. Roll Call and Determination of Quorum.

The meeting was held via teleconference.

The meeting was called to order at 6:30 p.m.

Members present: Jackson, Butler, MacDonald, Ramachandran. Tuman joined at 6:40
Yan joined at 6:51p.m.

Staff present: Whitney Barazoto, Suzanne Doran, Kellie Johnson and Ana Lara-Franco

City Attorney Staff: Trish Shafie

2. Staff and Commission Announcements.

There were no announcements

3. Open Forum.

There were two public speakers.

ACTION ITEMS

4. Approval of Commission Meeting Draft Minutes.

- a. October 5, 2020 Regular Meeting Minutes

There were no public speakers.

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Butler moved, and MacDonald seconded to adopt the October 5, 2020, meeting minutes.

Vote: Passed 4-0

Ayes: Jackson, Butler, MacDonald, Tuman

Abstain: Ramachandran

Noes: None

5. Public Ethics Commission Regular Meeting Schedule 2021.

The Commission reviewed a proposed schedule of regular Commission meetings in 2021.

There were no public speakers.

Ramachandran moved, and Tuman seconded to adopt the 2021 PEC meeting schedule.

Vote: Passed 5-0

Ayes: Jackson, Butler, MacDonald, Ramachandran and Tuman

Noes: None

6. New Commissioner Selection.

Chair Jackson explained that the Commission’s ad-hoc recruitment subcommittee met in September to interview Commissioner applicants for two PEC-appointed vacancies. The subcommittee received 11 applications, invited 7 candidates for an interview, and selected four finalists to appear before the full Commission for a public interview. Two of the finalists withdrew their application, leaving two final candidates.

Each finalist was given four minutes to introduce themselves to the Commission, followed by questions from Commissioners. Commissioners discussed how to proceed on filling the two positions.

There were two public speakers.

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Tuman moved to fill the longer term first. MacDonald added a friendly amendment to fill the current vacant seat first. Ramachandran added a friendly amendment to vote anonymously.

Commissioners discussed and asked questions. Jackson reminded Commissioners that a motion had been set forward. No second was brought. Motion failed.

Commissioners discussed the procedure and asked questions. Whitney Barazoto, Executive Director, shared that she would call for the vote and ask Commissioners to raise their hands via Zoom controls.

Jackson moved and Yan seconded the motion to take an up or down vote on each candidate and then vote on which seat to fill.

Vote: Passed 6-0

Ayes: Jackson, Butler, MacDonald, Ramachandran, Tuan and Yan

Noes: None

Next, Commissioners proceeded with voting whether each of the finalists should be appointed as commissioners. Ms. Barazoto asked the commissioners to vote as follows:

Do you support Avi Klein for a commissioner position?

Ayes: 6

Noes: None

Do you support Arvon Perteet for a commissioner position?

Ayes: 6

Noes: None

Ms. Barazoto then asked for a vote on whether Avi Klein should fill the current vacant seat which expires Jan 21, 2022:

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Ayes: 6

Noes: None

Tuman moved and Butler seconded to accept the results from both elections and to appoint Avi Klein to the current vacant seat and Arvon Perteet to the seat beginning January 22, 2021.

7. In the Matter of the City of Oakland Fire Department and Assistant Fire Marshal Vincent Crudele (Case No. M2020-16).

Kellie Johnson, Enforcement Chief, Staff presented to the Commission that the mediation be closed without further action. Commissioners asked questions and discussed the matter.

There were two public speakers.

MacDonald moved, and Ramachandran seconded to accept the recommendation.

Vote: Passed 6-0

Ayes: Jackson, Butler, MacDonald, Ramachandran, Tuman and Yan

Noes: None

DISCUSSION ITEMS

Reports on Subcommittees and Commissioner Assignments.

- a. Sunshine Review Subcommittee** (*ad hoc*/temporary, created on May 8, 2020) – Michael MacDonald (Chair), Jill Butler and Joe Tuman

MacDonald shared that the subcommittee continues to meet and are working on having a draft report ready for January.

- b. Commissioner Recruitment Subcommittee** (*ad hoc*/temporary, created on August 3, 2020) – James Jackson (Chair), Michael MacDonald, and Jerett Yan

Jackson congratulated the two new commissioners and, with the work of the Recruitment subcommittee have been completed, he dissolved the subcommittee.

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INFORMATION ITEMS

8. Disclosure and Engagement.

Suzanne Doran, Lead Analyst, provided a report of recent education, outreach, disclosure and data illumination activities. Ms. Doran shared the following updates: all 2020 campaign committee filers are compliant and shared a new app “Show Me the Money” which can compare up to three committees and their contributions to date. The app also shows where those contributions are coming from.

There were two public speakers.

9. Enforcement Program.

Ms. Johnson reported on the Commission’s enforcement work since the last regular Commission meeting.

MacDonald asked that future reports highlight the number of Sunshine Ordinance complaints.

There were two public speakers.

10. Executive Director’s Report.

Ms. Barazoto reported on overall projects, priorities, and significant activities since the Commission’s last meeting.

There was one public speaker.

The meeting adjourned at 8:51 p.m.

Item 5 - Mediation Summary M2017-12



James E.T. Jackson, Chair
Jill M. Butler, Vice Chair
Avi Klein
Michael MacDonald
Janani Ramachandran
Joseph Tuman
Jerett Yan

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
Kellie Johnson, Enforcement Chief
DATE: November 18, 2020
RE: *In the Matter of the City of Oakland Department of Human Services (Case No. M2017-12); Mediation Summary for the December 7, 2020, PEC Meeting*

I. INTRODUCTION

On June 1, 2017, the Commission received a request for mediation from the requestor alleging that employees in the City of Oakland Department of Human Services failed to provide responsive documents to a public records request made on April 25, 2017.

Staff initiated the Mediation process on June 5, 2017, and continued to mediate between the parties through April 19, 2019, when the entirety of responsive documents were provided to the requestor and the request was closed. Staff recommends that the Commission close the mediation without further action.

II. SUMMARY OF LAW

One of the primary purposes of the Oakland Sunshine Ordinance is to clarify and supplement the California Public Records Act (CPRA), which requires that all government records be open to inspection by the public unless there is a specific reason not to allow inspection.¹ The CPRA requires each agency to make public records promptly available to any person upon request.²

Any person whose request to inspect or copy public records has been denied by any City of Oakland body, agency, or department, may demand mediation of his or her request by Commission Staff.³ A person may not file a complaint with the Commission alleging the failure to permit the timely inspection or copying of a public record unless they have requested and participated in the Commission's mediation program.⁴

Once the Commission's mediation program has been concluded, Commission Staff is required to report the matter to the Commission by submitting a written summary of the issues presented, what efforts were made towards resolution, and how the dispute was resolved or what further efforts Commission Staff would recommend to resolve the dispute.⁵

¹ Oakland Municipal Code § 2.20.010(C); California Government Code § 6250 et seq.

² Government Code § 6253(b).

³ O.M.C. § 2.20.270(C)(1).

⁴ O.M.C. § 2.20.270(F).

⁵ Complaint Procedures § IV (C)(5).

III. SUMMARY OF FACTS

On April 25, 2017, the requestor made a public records request via RecordTrac (the online records request system prior to NextRequest) that included a request for the following information:

“According to the public records request procedures we would like copies of all of proposals for grants and other funding submitted for Measure Z and Measure D distribution, including to the ones who were not funded for years 2014 – 2017.”

On May 8, 2017, the Assistant to the City’s Finance Director responded in RecordTrac as follows:

“Additional time is required to answer your public records request. We need to consult with another agency before we are able to deliver your record.”

The requestor submitted a complaint to the Public Ethics Commission on June 1, 2017, stating that he had requested records and not received them. PEC staff reached out to the Department of Human Services on June 5, 2017.

On June 5, 2017, staff from the Department of Human Services added another note as follows:

“The department is in process of gathering grant proposals per your request. It is voluminous and need a few more weeks.”

On June 6, 2017, staff from the Department of Human Services emailed the requestor outlining the scope of the request, which amounted to 224 proposals that were available on-site for the 2016-19 grant cycle, and 223 proposals available off-site for the earlier time period. Department staff explained that each of these proposals had multiple attachments and stated that they were not available for transmission in electronic format. In addition, personal information would have to be redacted from the documents. Staff explained that the cost of the hard copies was estimated at between \$1,000 and \$2,500 and would be made available in batches given the extensive time needed for compiling, redacting, and copying. She asked for confirmation that the requestor wanted the records in that fashion.

The requestor responded to department staff by email by saying, “if that is the only way you can do it, then fine with us” and then proceeded to suggest scanning the documents to a disk drive rather than make hard copies. The requestor added, “However, do it like you want to. Our concern is time!” There was additional discussion via email between department staff and the requestor about how best to get the documents to the requestor, with the requestor expressing frustration about not getting the documents electronically but wanting them in the fastest manner possible, thus agreeing to the hard copy approach. At one point, the requestor suggested an electronic database method for application submission in the future and offered his paid services in helping the City install such a system.

The Department of Human Services proceeded with making hard copies of the proposals and on July 10, 2017, department staff emailed the requestor stating that they had four file boxes of proposals that were ready for pickup, for a total cost to the requestor of \$890.62 for the copies (significantly more than that had been incurred for staff costs associated with fulfilling the request). The staff added that these boxes represented four of the six-seven boxes of proposals for the 2016-19 grant cycle and that each box of proposals would cost the requestor about \$200-\$269 per box for the copies.

Item 5 - Mediation Summary M2017-12

The requestor never picked up the records made available in hard copy. Upon inquiry from PEC staff over the course of multiple emails between September 2017 and March 2018, the requestor refused to pick up and pay for the hard copies and continued to demand that the records be provided in electronic format. The Department also refused to prepare any further documents in response to the request.

On April 24, 2018, the PEC Director reached out to the requestor, the department manager, and the Department of Human Services Director to determine how to resolve the matter. After reviewing the above facts and supporting emails, and hearing from all of the parties, the PEC Director explained to the department staff that the requestor has a legal right to request and receive records in electronic format, even if the requestor previously asked for and agreed to hard copies. Department staff still objected to providing the documents electronically, arguing that the system did not allow for exporting of the records.

On Friday, May 18, 2018, the PEC Director met with department staff to view the format of the proposals in the electronic database system. While proposals could not be exported to a separate file electronically, they could be accessed individually, downloaded, and each one saved as a pdf into a separate file. The PEC Director advised that, even though the request was voluminous, and downloading dozens of attachments for each of the hundreds of proposals was time-intensive, the proposals can and should be downloaded and saved as pdfs to an electronic folder and placed onto a disk or flash drive to be provided to the requestor. The PEC Director also advised that any documents that had already been printed in hard copy could be scanned and provided to the requestor electronically to meet the same requirement.

That same day, the PEC Director emailed the requestor to confirm whether he still wanted electronic copies of all of the originally requested proposals. He replied that he did. The PEC Director explained that the department staff would be providing electronic records to the requestor in batches over the next several weeks and months.

On June 21, 2018, department staff emailed the requestor to let him know that they had a USB flash drive available for pickup with a first batch of proposals that had been downloaded electronically.

On July 12, 2018, the requestor picked up the first batch of electronic records.

Between July 2018 and April 2019, batches of proposals were made available to the requestor over the course of several months. There were additional communications between department staff and the requestor regarding the order of records within the electronic files among other matters; department staff assisted the requestor by explaining how to search within the electronic records, and as a courtesy (not a legal requirement) staff further agreed to create a folder for each separate proposal and place the attachments within the appropriate folder.

Department staff reported that the request was completed on April 19, 2019.

PEC staff reached out to the requestor to confirm that all responsive documents were received. The requestor did not respond.

IV. RECOMMENDATION

Although there was significant delay due to actions by both parties, the requestor eventually received responsive documents. PEC staff recommends that the Commission close the mediation without further action.

Item 6 - Staff Report - LPFA Program 2020 Summary



James E.T. Jackson, Chair
Jill Butler, Vice-Chair
Avi Klein
Michael MacDonald
Janani Ramachandran
Joseph Tuman
Jerret Yan

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Jelani Killings, Ethics Analyst
Whitney Barazoto, Executive Director
DATE: November 25, 2020
RE: 2020 LPF Program Summary

This memorandum provides the Commission with an overview of the disbursement of public financing through the administration of the LPF program during the November 2020 election.

Background of the Limited Public Finance Act

The Limited Public Financing Act (LPFA or Act), enacted in 1999 and last amended in 2010, provides District City Council candidates with some public funds by way of reimbursements for certain qualified expenditures, to be used for campaign expenses with the goal of helping ensure that all individuals have a fair and equal opportunity to participate in the elective and governmental process.

The stated purposes of the Act are as follows:

- To ensure that all individuals and interest groups in our city have a fair and equal opportunity to participate in elective and governmental processes.
- To reduce the influence of large contributors with a specific financial stake in matters under consideration by the city, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.
- To reduce the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.
- To encourage competition for elective office.
- To allow candidates and office holders to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.
- To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of important issues involved in political campaigns.
- To help preserve public trust in governmental and electoral institutions.

Item 6 - Staff Report - LPFA Program 2020 Summary

2020 Implementation

The process for applying for LPF funds began in late August after the City Clerk certified the names of all the November 2020 candidates running for City Council District offices, a total of 17. The combined total amount in the Election Campaign (LPF) Fund for fiscal years 2019-20 and 2020-21 was \$153,000 available for the November 2020 election.

Initially, all 17 certified candidates were invited to the LPF training and given the opportunity to participate in the LPF program. 16 candidates and/or their representatives attended the mandatory LPF training conducted by Commission staff as required for program eligibility. Only one candidate chose not to attend the training stating that they were not interested in receiving public financing. Of the 16 candidates that attended the training, 15 opted in to receive public financing. One candidate never responded to staff communications to submit LPF Form 1 and subsequently became ineligible for program participation. Consequently, there were 15 participating candidates that opted in to the program and were permitted to apply for an initial allocation of \$10,200 each, which is the amount of the election fund balance divided among the 15 candidates.

To maximize the use of LPF funds by candidates, staff continued the two-phased process of reimbursement allocations first implemented in the 2014 election cycle. Under the two-phased approach, candidates were required to file their first reimbursement claim by September 18 to use their first allotment and to remain eligible for a second redistribution of the remaining funds.

After the Phase-1 deadline, eight of the 15 candidates were ineligible to receive funds. All 8 candidates became ineligible because they had not met the required 5% contribution and expenditure threshold necessary to qualify for the program. According to filed pre-election statements, none of the candidates reached the 5% threshold even after the September 18 deadline.

Therefore, the initial disbursement of \$10,200 previously allocated to each of the eight now-ineligible candidates could be redistributed to the other participating candidates. This redistribution resulted in a new maximum amount of \$21,857 for each remaining eligible candidate, an increase of \$11,657 each.

Below is a list of the participating candidates and the total amount received by each through the LPF program.

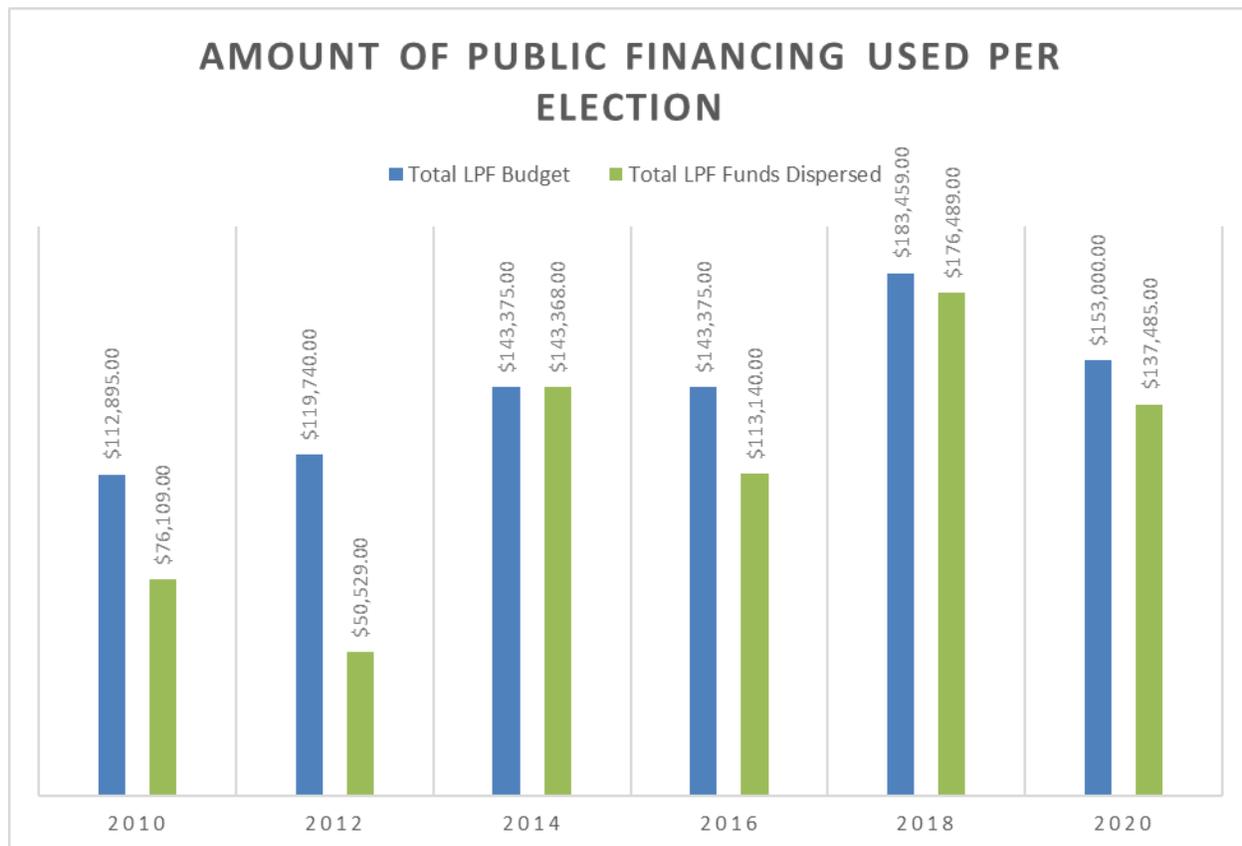
Candidate	District	Total Public Funds Received	Percent of Funds Available to the Candidate
Stephanie Dominguez Walton	1	\$21,857	100%
Dan Kalb (Incumbent)	1	\$21,857	100%
Carroll Fife	3	\$18,319	84%
Lynette Gibson McElhaney (Incumbent)	3	\$21,857	100%
Noel Gallo (Incumbent)	5	\$21,857	100%
Richard Santos Raya	5	\$21,857	100%
Treva Reid	7	\$9,880*	45%

*Candidate returned full amount of public financing received back to the City, stating that she did not require the funds.

Item 6 - Staff Report - LPFA Program 2020 Summary

The total amount of reimbursement funds distributed to candidates during the November 2020 election was \$137,485 or 90% of the total funds available.

In the past four elections, the percentage of total funds used, and overall participation percentages have continued to be high, which in part is attributable to the implementation of the two-phased approach in addition to more direct and earlier Commission Staff outreach to candidates. Below is a summary of the total funds available and disbursed out of the program for the last six elections.



The table below illustrates the number of certified candidates per election and the percentage that participated in the LPF program over the same period.

Year	Total Ballot Certified Candidates	Candidates Opted-In to LPF	LPF Opt-In Rate	Total Candidates Receiving Reimbursements	LPF Participation Percentage ¹
2010	12	N/A	N/A	5	42%
2012	20	15	75%	6	30%
2014	12	11	92%	8	67%
2016	9	7	78%	4	44%
2018	15	12	80%	10	67%
2020	17	15	88%	7	41%

¹ LPF participation percentage reflects candidates that met all program eligibility requirements and received public financing.

Item 6 - Staff Report - LPFA Program 2020 Summary

Analysis

The continued participation and use of public funds by candidates during election cycles suggests that candidates find the Limited Public Financing program helpful. All the candidates that received public financing indicated that it had a positive effect on their campaign, with one stating that “it helped immensely.” All participating candidates also indicated that they would participate in the LPF program in a future campaign.

The number of candidates that were deemed ineligible due to not meeting the 5% required threshold was considerably noticeable this year as it eliminated over half of the participating candidates. Candidates that did not receive public financing indicated that they would like to see the eligibility requirements reduced but did not indicate to what amount. The table below shows the candidates that were deemed ineligible, their reported contributions as of September 19 and October 17 (pre-election statements), and if they ever reached the 5% contribution threshold during the election cycle.

Candidate Name	District	Oakland contributions reported as of 9/19/2020*	Oakland contributions reported as of 10/17/2020*	Meet 5% Eligibility Threshold
Tri Ngo	1	\$0.00	0.00	No
Alexus Taylor	3	\$0.00	0.00	No
Meron Semedar	3	\$700.00	\$1,350.00	No
Faye Taylor	3	\$0.00	\$0.00	No
Seneca Scott	3	\$600.00	\$1,700	No
Zoe Lopez-Meraz	5	\$1,760.00	\$3,790.66	No
Marchon Tatmon	7	\$950.00	\$1,850.00	No
Marcie Hodge	7	\$800.00	\$2,050.00	No

*Amount does not include non-itemized contributions or non-Oakland addresses reported

With eight candidates initially opting-in but failing to meet Phase II deadline, the two-phase approach proved effective in that it allowed unused money to be re-distributed to candidates, resulting in an increase to each participating candidate’s maximum allotment and ensuring that monies in the election fund were maximized. It also prevents candidates from opting in merely to earmark funds for themselves, not their opponents, with no intent to use funds. Additionally, the deadline of September 18 helps get candidates to file their first claim early, which results in better understanding of the required paperwork and the items qualifying for reimbursement earlier in the process while allowing them more time before the election to submit additional claims.

Conclusion

In implementing the Limited Public Financing Program as currently designed, staff recommends continuing the two-phased distribution process. In addition, Staff will continue to focus on early education resources to help first-time candidates understand program eligibility requirements. While this memorandum focuses on reviewing the administration of the existing public financing program, Commission staff notes that the Commission’s report, *Race for Power*, published earlier this year, made recommendations for rethinking how the process could be redesigned to expand participation and equity in the campaign finance and public financing system.

Chapter 3.13 - LIMITED PUBLIC FINANCING ACT^[2]

Sections:

Footnotes:

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Editor's note—Ord. No. 13031, adopted July 27, 2010, amended Chapter 3.13 in its entirety to read as herein set out. Formerly, Chapter 3.13, §§ 3.13.010—3.13.290, pertained to similar subject matter and derived from Ord. No. 12308, adopted 2001; Ord. No. 12375, adopted 2001; Ord. No. 12519, § 1, adopted 2003; Ord. No. 12648, § 3, adopted 2005; Ord. No. 12669, §§ 3—10, adopted 2005; Ord. No. 12905, § 2, adopted November 18, 2009, and Ord. No. 13012, § 2, adopted May 4, 2010.

Article I. - Findings and Purpose

3.13.010 - Title.

This chapter shall be known as the "Limited Public Financing Act of the City of Oakland."

(Ord. No. 13031, 7-27-2010)

3.13.020 - Findings and declarations.

The findings of this Act are as follows:

- A. The financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.
- B. The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters under consideration by city government. This has caused the public perception that votes are being improperly influenced by monetary contributions.
- C. High campaign costs are forcing officeholders to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting officeholders from urgent governmental matters.

(Ord. No. 13031, 7-27-2010)

3.13.030 - Purpose of this Act.

The purpose of this Act is to accomplish the objectives stated in Oakland's Campaign Reform Act as follows:

- A. To ensure that all individuals and interest groups in our city have a fair and equal opportunity to participate in elective and governmental processes.

- B. To reduce the influence of large contributors with a specific financial stake in matters under consideration by the city, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.
- C. To reduce the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.
- D. To encourage competition for elective office.
- E. To allow candidates and office holders to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.
- F. To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of important issues involved in political campaigns.
- G. To help preserve public trust in governmental and electoral institutions.

(Ord. No. 13031, 7-27-2010)

Article II. - Definitions

3.13.040 - Interpretation of this Act.

Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the text, the definitions set forth in Chapter 3.12 of this Code and in Government Code Sections 81000 et seq. as amended govern the interpretation of this Act.

For purposes of this Act, "principal residence" shall mean the place in which a person's habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning.

For purposes of this Act, "primary place of doing business" shall mean the street address of a corporation's or association's principal executive office as filed with the California Secretary of State or the street address of an unincorporated association's principal office as filed with the California Secretary of State.

(Ord. No. 13031, 7-27-2010)

Article III. - Election Campaign Fund

3.13.050 - Election campaign fund.

There is hereby established an account within a special revenue fund of the city to be known as the "Election Campaign Fund."

(Ord. No. 13031, 7-27-2010)

3.13.060 - Appropriation of funds.

- A. The city council shall appropriate to the election campaign fund, under the city's current two-year budget cycle, an amount sufficient to fund all candidates eligible to receive public financing for the office of district city councilmember.
- B. The city public ethics commission shall provide in the form and at the time directed by the mayor and city administrator a written estimate of the amount necessary to be appropriated for any two-year budget cycle according to the provisions of this Act for all eligible candidates. The amount of funds to be allocated to the election campaign fund shall be based on a consideration of anticipated campaign activity, anticipated administrative costs, and existing unspent funds within the account. The amount of funds to be allocated to the election campaign fund shall not exceed \$500,000.00 for any two-year budget cycle.
- C. The election campaign fund shall be established as an interest bearing account. Unspent funds in the election campaign fund at the end of a two-year budget cycle shall remain in the fund and accrue for disbursement to candidates eligible for public financing in future elections and for administrative costs.
- D. Up to seven and one-half percent of the amount allocated to the election campaign fund pursuant to Subsections 3.13.060(a) and (b) may be utilized by the public ethics commission to cover the anticipated cost of administering the provisions of this Act.

(Ord. No. 13031, 7-27-2010)

3.13.065 - Allocation of election campaign fund.

No later than seven days after the city clerk has certified the names of all candidates to appear on the ballot, the public ethics commission shall determine at a publicly noticed meeting whether, based on the number of potentially eligible candidates, the amount of money in the election campaign fund is adequate to provide the maximum amount to potentially eligible candidates. If the commission determines that the election campaign fund will not be adequate to provide the maximum amount of funds to potentially eligible candidates, the commission shall order the disbursement of available funds on a pro rata or other equitable basis. The commission may at any time revise the disbursement plan consistent with these rules and prevailing law.

(Ord. No. 13031, 7-27-2010)

Article IV. - Eligibility for Public Financing

3.13.070 - Application and withdrawal procedures.

- A. Each candidate for district city council shall file a statement with the city clerk on a form approved for such purpose indicating acceptance or rejection of the voluntary spending ceilings pursuant to Section 3.12.190.
- B. Each candidate for district city council shall file with the public ethics commission a statement of acceptance or rejection of public financing on a form approved by the public ethics commission no later than 14 calendar days after the date the city clerk has certified the names of candidates to appear on the ballot for the election in which public financing will be sought. The statement of acceptance or rejection of public financing shall advise and require that the candidate's decision to reject public financing is irrevocable for the election in which his or her name appears on the ballot. The failure to timely file a statement of acceptance or rejection of public financing shall constitute a rejection of public financing.

- C. If a candidate declines to accept the voluntary expenditure ceilings prescribed in Section 3.12.200, the candidate shall be subject to the contribution limits of Subsections 3.12.050(a) and 3.12.060(a) and shall not be eligible for public financing.
- D. If a candidate agrees to accept the voluntary expenditure ceilings prescribed in Section 3.12.200, the candidate shall be subject to the contribution limits of Subsections 3.12.050(b) and 3.12.060(b) as adjusted pursuant to Subsections 3.12.050(g) and 3.12.060(g), and shall be eligible for public financing upon meeting the qualification requirements as provided in this Act.
- E. In the event expenditure ceilings are lifted pursuant to Section 3.12.200, a candidate who accepted expenditure ceilings shall be permitted to receive public financing but shall no longer be subject to expenditure ceilings.

(Ord. No. 13031, 7-27-2010)

3.13.080 - Qualification procedures.

A candidate shall be approved to receive public financing if the candidate meets all of the following requirements:

- A. The candidate has filed a timely statement of acceptance of the voluntary spending ceilings and acceptance of public financing.
- B. The candidate is certified to appear on the ballot for the election for which public financing is sought.
- C. The candidate has (1) received contributions in an aggregate amount of at least five percent of the expenditure ceiling for the office being sought from contributors whose principal residence or whose primary place of doing business is located within the city and which residence or business address appears on the written instrument used to make the contribution, and (2) made qualified campaign expenditures in an aggregate amount of at least five percent of the expenditure ceiling for the office being sought. Contributions from the candidate's own funds shall not be counted towards meeting this five percent requirement. The candidate shall provide copies of the contribution checks received and records of payments made to meet the five percent eligibility requirements.
- D. The candidate is opposed by another candidate for the same office.
- E. The candidate agrees to all conditions and requirements of this Act and to submit to any reasonable audit deemed appropriate by the public ethics commission or other civil authorities.
- F. The candidate or his or her campaign treasurer or designee attends a training program conducted or sponsored by the public ethics commission.
- G. The candidate has filed, and completely and accurately executed, all pre-election campaign statements that are due at the time public financing is payable. All candidates receiving public financing shall timely file, and completely and accurately execute, all post-election campaign statements for each election in which they received public financing.

(Ord. No. 13031, 7-27-2010)

3.13.090 - Use of personal funds.

A candidate who accepts public financing shall not receive contributions or loans from the candidate's own funds which aggregate total exceeds ten percent of the voluntary expenditure ceiling for the office being sought. If the voluntary expenditure ceilings for the office being sought are lifted, this provision shall not apply.

(Ord. No. 13031, 7-27-2010)

Article V. - Disbursement of Public Financing

3.13.100 - Duties of the public ethics commission and office of the city auditor.

- A. The public ethics commission shall develop any and all forms necessary to carry out the provisions of the Act. The public ethics commission may, in its discretion, require any document or form to be filed in an electronic format that is provided by the public ethics commission to the candidates free of charge.
- B. The public ethics commission shall review records submitted to determine a candidate's eligibility to receive public financing and requests for reimbursement promptly. For any candidate determined not to be eligible for public financing, the commission or its designee shall inform the candidate of the reasons why the candidate is not eligible and what actions, if any, the candidate may take to correct any insufficiencies.
- C. The city auditor shall conduct mandatory post-election audits of all candidates accepting public financing. The city auditor may chose to limit the scope of any audit to the items submitted for reimbursement. The audit report shall be a public record and provided to the public ethics commission. The city auditor shall conduct all audits in accordance with generally accepted government auditing standards.

(Ord. No. 13031, 7-27-2010)

3.13.110 - Requests for public financing.

- A. Public financing pursuant to this Act shall be provided solely by reimbursing eligible candidates for certain qualified campaign expenditures lawfully made by the candidate and his or her campaign committee.
- B. The qualified campaign expenditures eligible for reimbursement are:
 - 1. Candidate filing and ballot fees;
 - 2. Printed campaign literature and production costs;
 - 3. Postage;
 - 4. Print advertisements;
 - 5. Radio airtime and production costs;
 - 6. Television or cable airtime and production costs; and
 - 7. Website design and maintenance costs.
- C. The following conditions and restrictions shall apply to any request for reimbursement:
 - 1. All requests for reimbursement shall be made on a form authorized by the public ethics commission and shall include: (a) a copy of the billing invoice for which reimbursement is sought; (b) a copy of the check(s) by which the candidate's campaign committee made payment on the billing invoice; and (c) a copy, when applicable, of the campaign literature, advertisement, radio or television script, or website configuration.
 - 2. All requests for reimbursement shall include a sworn declaration by the candidate and his or her campaign treasurer that (a) the check(s) used to make payment on the billing invoice represents payment in full of the billing invoice submitted for reimbursement and that sufficient funds exist

in the campaign account to provide payment, and (b) any money received from the election campaign fund has not been previously earmarked or specifically encumbered to pay or to secure payment of any loan, return of contribution or of any expenditure other than the one for which reimbursement was sought.

- D. Any decision made by the executive director to deny a request for reimbursement may be appealed to the commission whose decision shall be final. A request to agendize an appeal of the executive director's decision shall be made in writing and delivered to the office of the public ethics commission no more than ten calendar days after receiving written notice of the executive director's decision.
- E. The total amount of public financing allocated to each candidate shall not exceed 30 percent of the voluntary expenditure ceiling per election for the office being sought.

(Ord. No. 13031, 7-27-2010)

3.13.120 - Disbursement and deposit of public financing.

- A. A candidate or candidate's controlled committee, certified as eligible to receive public financing, shall submit requests for reimbursement to the public ethics commission in minimum increments of \$1,000.00 or more.
- B. A candidate or candidate's controlled committee, certified as eligible to receive public financing, shall submit requests for reimbursement in minimum increments of \$500.00 or more ten calendar days before the election.
- C. The public ethics commission or its designee shall have ten calendar days to cause the review and approval or denial of the request for reimbursement and disburse funds from the election campaign fund to the candidate or candidate's controlled committee.
- D. All funds disbursed from the election campaign fund shall be made payable to the candidate's controlled committee and shall be deposited directly into the candidate's campaign checking account within three business days of receipt.

(Ord. No. 13031, 7-27-2010)

3.13.150 - Return of surplus funds.

- A. Surplus campaign funds remaining at the end of the post-election reporting period following the election for which public financing was received shall be returned to the election campaign fund no later than 31 calendar days from the last day of the semi-annual reporting period following the election in an amount specified by this section. A candidate shall not be required to return any surplus funds in an amount greater than the amount of public financing received. The amount of surplus campaign funds to be returned to the election campaign fund shall be calculated by multiplying the amount of surplus campaign funds by the percentage that total public financing received represents of total monetary contributions received for the election period.
- B. For purposes of this Act, campaign funds shall be considered "surplus" campaign funds to the extent that the total amount of contributions (excluding the receipt of public financing) exceed the total financial obligations of the candidate's campaign committee (excluding unlawful or non-qualified campaign expenditures) as of the last day of the semi-annual reporting period following the election. A financial obligation includes (1) accounts payable billed, or (2) accounts payable for which bills may be expected, for goods or services received during the election.
- C. Public financing shall not be disbursed to the certified candidate from the election campaign fund following the day of the election or the candidate's withdrawal from the election, whichever occurs first, except that public financing may be disbursed to a certified candidate after the date of the election or withdrawal provided that the candidate submitted a properly documented request for reimbursement before the date of the election or the date of withdrawal from the election.

(Ord. No. 13031, 7-27-2010)

3.13.170 - Public debates.

While not a condition for receiving public financing, candidates receiving public financing are strongly encouraged to participate in one or more nonpartisan candidate debates for each election.

(Ord. No. 13031, 7-27-2010)

3.13.180 - Enforcement.

The public ethics commission is the sole body for civil enforcement of this Act. In the event criminal violations of the Act come to the attention of the public ethics commission, the commission shall promptly advise in writing the city attorney and the appropriate prosecuting enforcement agency.

(Ord. No. 13031, 7-27-2010)

3.13.190 - Criminal misdemeanor actions.

Any person who knowingly or willfully (1) misrepresents his or her eligibility for public financing, (2) makes a material misrepresentation in connection with a request for reimbursement, or (3) causes, aids or abets any other person to violate the provisions of this Act, is guilty of a misdemeanor. Prosecution shall be commenced within four years after the date on which the violation occurred.

(Ord. No. 13031, 7-27-2010)

3.13.200 - Enforcement actions.

- A. Any person who intentionally or negligently (1) misrepresents his or her eligibility for public financing, (2) makes a material misrepresentation in connection with a request for reimbursement, or (3) causes, aids or abets any other person to violate the provisions of this Act, is subject to enforcement proceedings before the public ethics commission pursuant to the public ethics commission general rules of procedure.
- B. If two or more persons are responsible for any violation, they shall be jointly and severally liable.
- C. Any person alleging a violation of this Act shall first file with the public ethics commission a written complaint on a form approved for such purpose. The complaint shall contain a statement of the grounds for believing a violation has occurred. The public ethics commission shall review, investigate and make determinations regarding any alleged violation consistent with the public ethics commission's general complaint procedures.
- D. The commission has full authority to settle any action involving public financing in the interest of justice.
- E. If the commission determines a violation has occurred, the commission is hereby authorized to administer appropriate penalties and fines not to exceed \$1,000.00 per violation and to order the repayment of public financing received or expended in violation of law.
- F. The public ethics commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.
- G. No complaint alleging a violation of any provision of this Act shall be filed more than four years after the date the violation occurred.

(Ord. No. 13031, 7-27-2010)

3.13.220 - Construction.

The Act shall be liberally construed to accomplish its purposes.

(Ord. No. 13031, 7-27-2010)

3.13.240 - Applicability of other laws.

Nothing in this Act shall exempt any person from applicable provisions of any other laws of the city, state or other appropriate jurisdiction.

(Ord. No. 13031, 7-27-2010)

3.13.260 - Severability.

If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Act are severable.

(Ord. No. 13031, 7-27-2010)

Item 8 - Disclosure Report



James E.T. Jackson, Chair
Jill M. Butler, Vice-Chair
Avi Klein
Michael B. MacDonald
Janani Ramachandran
Joe Tuman
Jerett Yan

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Suzanne Doran, Lead Analyst
Jelani Killings, Ethics Analyst
Whitney Barazoto, Executive Director
DATE: November 25, 2020
RE: Disclosure and Engagement Report for the December 7, 2020, PEC Meeting

This memorandum provides a summary of the Public Ethics Commission's (PEC or Commission) Disclosure and Engagement program activities since the last monthly meeting. Commission staff disclosure activities focus on improving online tools for public access to local campaign finance and other disclosure data, enhancing compliance with disclosure rules, and conducting data analysis for PEC projects and programs as required. Engagement activities include training and resources provided to the regulated community, as well as general outreach to Oakland residents to raise awareness of the Commission's role and services and to provide opportunity for dialogue between the Commission and community members.

Filing Officer/Disclosure

Campaign Finance – As reported last month, the second pre-election deadline for the November 2020 election was October 22. All candidate-controlled committees with candidates on the November ballot must file pre-election statements for their campaign committees as well as any other committees that they control. Ballot measure committees and other recipient committees with fundraising or spending activity connected with the November ballot must also file by the pre-election deadlines.

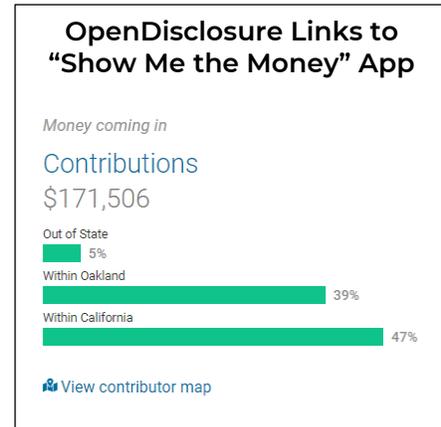
All 2020 candidate-controlled, ballot measure and general purpose committees have filed their September and October pre-election campaign statements. A total of \$600 in late fees were assessed against six committees for campaign statements submitted past the deadline. Commission staff completed surface review of all 118 pre-election campaign statements. The next scheduled campaign statement covers the period from October 18 through December 31 and is due February 1, 2021.

Lobbyist Registration and Reporting – The third quarter lobbyist activity report deadline passed on October 30. To date, 57 reports have been filed, 95 percent timely. Lobbyists reported 179 contacts with City officials and \$391,234 in economic consideration (payments) to influence government actions during the third quarter of 2020, for a total of \$1,314,373 for the year.¹

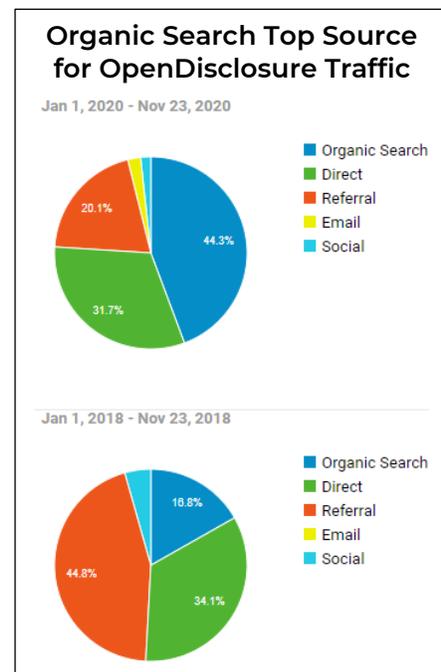
¹ Reporting client payments is voluntary. Figures are based on the data provided and do not reflect unreported payments.

Illuminating Disclosure Data

OpenDisclosure – The 2020 release of campaign finance app [OpenDisclosure](#) added new features to increase transparency, including a search function that makes campaign donation records easy to search and sort and allows users to seek campaign donors by name across multiple campaigns and elections. The site shows funds donated to both political candidates and ballot measure committees and provides clear summaries of money raised and spent as well as financial trends for each election. Links to the PEC’s new [“Show Me the Money”](#) app, which enables users to map the source of campaign contributions, are now included on candidate pages.



User engagement measures for 2020 showed major improvements over prior election years. Just under 8,000 users visited the site in 2020, a 160 percent increase over 2018. By comparison, the City’s Campaign Finance and Lobbyist Disclosure Portal, where users can download campaign filings and raw data, had 1,951 users during the same time period. During the four weeks leading up to election day, OpenDisclosure received an average of 137 visitors per day. Sessions by users of the site increase by 103 percent (9,900 in 2020 vs. 4,866 in 2018) and totaled 35,450 pageviews of OpenDisclosure content.



An important indicator of effective outreach was the large increase (581 percent) of users arriving at OpenDisclosure through organic search results. The term “organic search” refers to website visitors coming from a search engine, such as Google or Bing. Users through organic search is the primary channel that marketing seeks to increase. In 2020, organic search rose to the top source of users as compared with users referred by links on other websites, emails, or social media. Our collaboration with the Voter’s Edge website, a project of the League of Women Voters in partnership with Maplight, also continued to be an important avenue for connecting with OpenDisclosure users as the largest source of referrals (77 percent).

Since launching Open Disclosure in 2014, the site has reached 29,065 users with 132,853 views of OpenDisclosure content. OpenDisclosure is a project of OpenOakland volunteers in partnership with Public Ethics Commission staff.

“Show Me the Money” Campaign Finance App – The Commission’s new [“Show Me the Money”](#) app went live on October 28 just in time for the November election. “Show Me the Money” is an interactive disclosure tool that provides an easy way visualize the source of campaign contributions and to make comparisons across races and years. Users of “Show me the money” enter the name of a candidate or committee in a



Item 8 - Disclosure Report

search box to generate a map showing the sources of campaign cash. The application also shows a bar chart of top contributors and a graph of contributions over time.² Like the Commission’s other campaign finance projects, the data is updated daily from the City’s campaign finance database. The app is accessible on the Commission website, OakData portal, and OpenDisclosure.

Special appreciation goes out to Oakland’s Information Technology Department, in particular Application Developer Titus Kress, for providing the support necessary to launch the app within a very tight timeframe for the November election.

Limited Public Financing Program

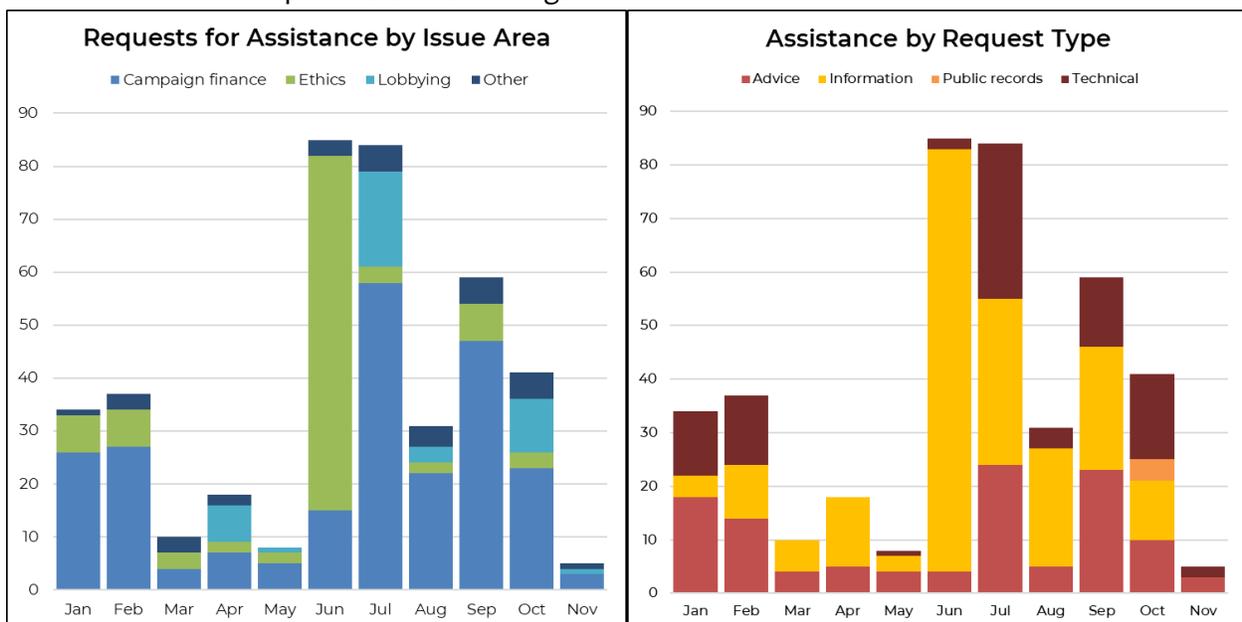
The deadline for candidates participating in the 2020 LPF Program to submit final reimbursement claims was Monday, November 2. Commission staff dispersed a total of \$137,485 in processed reimbursements to participating candidates out of the \$153,000 available through the election fund. More information about the implementation of this project is provided in a separate report on the Commission’s December 7, 2020, meeting agenda.

Advice and Engagement

Advice and Assistance – Commission staff responded to five requests for advice and assistance during the month of November. Commission staff fulfilled 412 requests for advice and assistance this year.

Candidates and Campaigns – As part of campaign education efforts, staff routinely issues advisories to ensure that candidates and committees are aware of local rules during election season. The final 2020 advisory covers the rules for use of surplus funds and terminating committees to ensure that campaigns are aware of responsibilities after the election and properly close committees.

Ethics – On November 4, PEC staff conducted a live Government Ethics Training for Form 700 Filers via Zoom. The training was hosted by the Department of Human Resources (HR) and served as an alternative for employees that have not completed the PEC’s online training. Staff will continue to coordinate with HR to provide ethics trainings.



² Only candidates and campaign committees that file campaign statements with the City of Oakland appear in the app.

Item 8 - Disclosure Report

On November 12, staff made an ethics presentation at the request of the City's Redistricting Commission. Staff provided board members with information about the Commission and its services, gave an overview of the Government Ethics Act including Form 700 filing requirements, and provided members with the PEC's Board and Commission Member Handbook.

Staff continues to make presentations at the City's monthly New Employee Orientation (NEO) providing new employees with an introduction to the PEC and overview of the Government Ethics Act (GEA). On November 17, staff trained a total of 30 new employees on GEA provisions.

General Outreach

Social Media – Communications in November focused on promoting Open Disclosure and the “Show Me the Money” app.

Item 9 - Enforcement Report



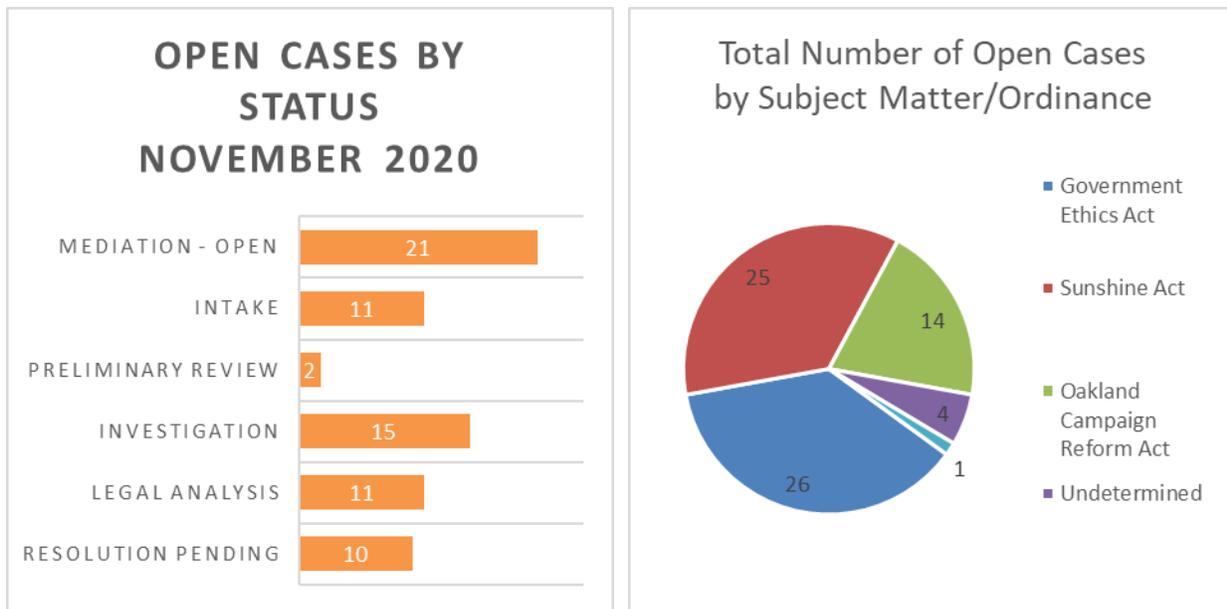
James E.T. Jackson, Chair
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Avi Klein
Michael MacDonald
Janani Ramachandran
Joseph Tuman
Jerett Yan

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Kellie Johnson, Enforcement Chief
DATE: November 24, 2020
RE: Enforcement Program Update for the December 7, 2020, PEC Meeting

Current Enforcement Activities:

Since the last Enforcement Program Update on November 2, 2020, Commission staff received 2 complaints. This brings the total Enforcement caseload to 70 enforcement and 21 mediation cases: 13 matters in the intake or preliminary review stage, 15 matters under active investigation, 11 matters under post-investigation analysis, 10 matters in settlement negotiations or awaiting an administrative hearing, and 21 ongoing public records request mediations.



- Please note the pie chart of "Open Cases by Subject Matter " now includes the delinked category of Sunshine Act cases.

Summary of Cases:

Since the last Enforcement Program Update in November 2020, there is one status change to report.

- 1. *In the Matter of the City of Oakland Department of Human Services (Case No. M2017-12).*** On June 1, 2017, the Commission received a request for mediation from the Requestor that alleged that the City of Oakland Department of Human Services failed to provide responsive documents to a public records request. The Requestor initiated his public records request on April 25, 2017, seeking copies of all Measure Z and Measure D grant proposals from 2012-2019, consisting of roughly 450 proposals, each with dozens of attachments. Commission staff initiated the mediation process on June 5, 2017, and continued to mediate through April 19, 2019, when the Department provided the final batch of responsive documents to the Requestor. Staff recommends that the Commission close the mediation without further action. (See Action Items)



James E.T. Jackson, Chair
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Joe Tuman
Jerett Yan

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
DATE: November 25, 2020
RE: Executive Director's Report for the December 7, 2020, PEC Meeting

This memorandum provides an overview of the Public Ethics Commission's (PEC or Commission) significant activities completed or in progress since the Commission's last regular meeting that are not otherwise covered by other program reports. The attached overview of Commission Programs and Priorities includes the ongoing goals and activities for 2019-20 for each program area.

PEC Commissioner Onboarding

New Commissioner Avi Klein was appointed by the Commission at its November 2, 2020, regular meeting for a term that begins immediately and expires on January 21, 2022. Commissioner Klein was sworn in on Thursday, November 19, 2020, by the City Clerk. Commission staff will be conducting an orientation to staff programs and legal responsibilities in mid-December for both Commissioner Klein and Arvon Perteet, who was appointed by the Commission to begin his term in January, 2020.

Part-Time Investigator

The Commission welcomes part-time investigator Vickie Ma, whose first day with the Commission is November 30, 2020. Vickie brings a wealth of experience in both criminal and ethics investigations, serving as an assistant district attorney in Brooklyn, New York, and as a staff attorney for the New York State Commission on Judicial Conduct. She received a J.D. from Albany Law School of Union University and a B.A. from the University of Wisconsin, Madison. She will be assisting with investigations in the Commission's Enforcement unit.

PEC Legislation

Commission staff presented the Commission's proposed amendments to the PEC's enabling ordinance at City Council Rules Committee on November 12, 2020. The Committee approved a motion to send the amendments to City Council for first review at its December 1, 2020, Council meeting. The amendments update the ordinance to conform with City Charter section 603, delete duplicative language that now appears in the City Charter, and codify the Commission's administrative hearing and fine collection process.

Attachments:
Commission Programs and Priorities

PUBLIC ETHICS COMMISSION
Programs and Priorities 2019-20

Program	Goal	Desired Outcome	Key Projects for 2019-20
Lead/ Collaborate (Policy, Systems, Culture)	PEC facilitates changes in City policies, laws, systems, and technology and leads by example to ensure fairness, openness, honesty, integrity and innovation.	Effective campaign finance, ethics, and transparency policies, procedures, and systems are in place across City agencies	<ol style="list-style-type: none"> 1. Adoption of PEC-drafted City Ticket Distribution policy and process changes 2. Campaign Finance/Public Financing Act Project to expand participation in the campaign process ✓
Educate/ Advise	Oakland public servants, candidates for office, lobbyists, and City contractors understand and comply with City campaign finance, ethics, and transparency laws.	The PEC is a trusted and frequent source for information and assistance on government ethics, campaign finance, and transparency issues; the PEC fosters and sustains ethical culture throughout City government.	<ol style="list-style-type: none"> 1. Online ethics training for Form 700 filers – ensure training delivered to a) elected officials, b) City employees (1000), b) board/commission members, and c) consultants 2. Board/Commission member/liason support/guidance; Sunshine/Meeting agenda posting Compliance Review ✓ 3. Ongoing: advice calls, in-person trainings, ethics orientation for new employees (12), supervisor academy (3-4), and PEC newsletter (2) 4. Sunshine and Lobbyist education materials
Outreach/ Engage	Citizens and regulated community know about the PEC and know that the PEC is responsive to their complaints/questions about government ethics, campaign finance, or transparency concerns.	The PEC actively engages with clients and citizens demonstrating a collaborative transparency approach that fosters two-way interaction between citizens and government to enhance mutual knowledge, understanding, and trust.	<ol style="list-style-type: none"> 1. Outreach to client groups: -City staff/officials ✓ -Candidates ✓ -people doing business with the City 2. Sustain/enhance general PEC social media outreach 3. PEC Roadshow – focus on CF project outreach (Commissioners) 4. Engage Boards/Commissions regarding Sunshine requirements ✓ (ensure/review agenda postings online)
Disclose/ Illuminate	<p>PEC website and disclosure tools are user-friendly, accurate, up-to-date, and commonly used to view government integrity data.</p> <p>Filing tools collect and transmit data in an effective and user-friendly manner.</p>	<p>Citizens can easily access accurate, complete campaign finance and ethics-related data in a user-friendly, understandable format.</p> <p>Filers can easily submit campaign finance, lobbyist, and ethics-related disclosure information.</p>	<ol style="list-style-type: none"> 1. Lobbyist Registration – pilot new e-filing system, create online open data format for public accessibility ✓ 2. Form 803 Behested Payments – implement e-filing process, create online open data format for public accessibility ✓ 3. Initiate/develop project plan to establish contractor database 4. Open Disclosure 2020 – campaign data visualization project ✓ 5. Government Integrity Data Project planning and development
Detect/ Deter	PEC staff proactively detects potential violations and efficiently investigates complaints of non-	Public servants, candidates, lobbyists, and City contractors are motivated to comply with	<ol style="list-style-type: none"> 1. Focus on ethics violations, proactive investigations ✓ 2. Conduct complaint intakes within 2 weeks 3. Collaborate with other government law enforcement agencies

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	compliance with laws within the PEC's jurisdiction.	the laws within the PEC's jurisdiction.	4. Conduct audits to identify common, across-the-board compliance issues
Prosecute	Enforcement is swift, fair, consistent, and effective.	Obtain compliance with campaign finance, ethics, and transparency laws, and provide timely, fair, and consistent enforcement that is proportional to the seriousness of the violation.	<ol style="list-style-type: none"> 1. Conduct hearings as needed 2. Complete City ticket cases 3. Expedite Sunshine Mediations ✓ 4. Amend Complaint Procedures ✓ 5. Resolve all 2014 and 2015 cases ✓ 6. Streamline and expand enforcement systems to incorporate broader tools
Administration/ Management	PEC staff collects and uses performance data to guide improvements to program activities, motivate staff, and share progress toward PEC goals.	PEC staff model a culture of accountability, transparency, innovation, and performance management.	<ol style="list-style-type: none"> 1. Revise PEC Enabling Ordinance 2. Publish performance goals and data on PEC website – dashboards 3. Review data to adjust activities throughout the year 4. Ongoing: professional development and staff reviews