

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Teleconference
Monday, January 4, 2021
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.
- **Telephone:** Dial (for higher quality, dial a number based on your current location):
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 - 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. December 7, 2020 Regular Meeting Minutes ([Meeting Minutes](#))
5. **Election of Officers (Chair and Vice-Chair) of the Commission.** Commissioners will discuss the process for selecting a Chair and Vice-Chair, and will then have an opportunity to nominate any Commissioner to serve as Chair and another as Vice Chair for 2021. If more than one Commissioner is nominated for an office, each nominee may speak regarding their qualifications and interest in serving and may answer questions of Commissioners or the public (Public Ethics Commission Operations Policies, Article IV). The Commission may discuss the nominations and, when the vote is called, each Commissioner may cast a single vote for each office. ([PEC Operations Policies](#))
6. **In the Matter of Anthony Harbaugh (Case No. 18-11).** In October 2016, PEC Staff opened a pro-active investigation into allegations of a bribery and misuse of position scheme by a senior building inspector Thomas Espinosa. During the investigation, Commission Staff found evidence that Anthony Harbaugh, a City building inspector, between January 2015 and December 2016, committed, participated in, or aided and abetted Thomas Espinosa in committing multiple violations of the Oakland Government Ethics Act. The alleged violations included the following: soliciting and receiving bribes; making, and seeking to use his official position to influence, governmental decisions in which he had a disqualifying financial interest; misusing City resources for personal financial gain; misusing his City position to induce/coerce others to provide him with

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economic gain, and; failing to report significant income from individuals with matters before him as a City building inspector. The parties were unable to reach a stipulated settlement; therefore, on November 18 and 19, 2020, a hearing was held on the merits of the allegations. Staff Recommends that the Commission adopt the recommended factual findings of the Hearing Officer and impose an appropriate administrative penalty. ([Staff Memorandum](#); [Hearing Officer's Recommendation](#))

DISCUSSION ITEMS

7. **Reports on Subcommittees and Commissioner Assignments.** Commissioners may discuss subcommittee assignments, create a new subcommittee, or report on work 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.

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12/18/2020

Approved for Distribution

Date



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CITY OF OAKLAND
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One Frank Ogawa Plaza (City Hall)
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Monday, December 7, 2020
6:30 p.m.

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, Klein, MacDonald, Ramachandran, and Tuman.
Yan joined at 6:39p.m.

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

City Attorney Staff: Trish Shafie

2. Staff and Commission Announcements.

Jackson welcomed new commissioner Klein.

3. Open Forum.

There were no public speakers.

ACTION ITEMS

4. Approval of Commission Meeting Draft Minutes.

- a. November 2, 2020 Regular Meeting Minutes

Ramachandran noted that on pg. 3 of the minutes Tuman is spelled incorrectly.

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There were no public speakers.

Butler moved, and MacDonald seconded to adopt the November 2, 2020, meeting minutes with the correction.

Vote: Passed 5-0

Ayes: Jackson, Butler, MacDonald, Ramachandran, Tuman

Abstain: Klein. He was not at the meeting.

Noes: None

5. *In the Matter of the City of Oakland Department of Human Services (Case No. M2017-12).*

Whitney Barazoto, Executive Director, summarized the matter and recommended closure of the mediation because all of the records had been provided.

There were no public speakers.

Ramachandran moved, and Tuman seconded to adopt the staff recommendation.

Vote: Passed 7-0

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

Noes: None

DISCUSSION ITEMS

6. Limited Public Financing Program Implementation 2020.

Ms. Barazoto provided an overview of the Limited Public Financing Program implementation and utilization of funds for the November 2020 Election. Commissioners asked questions and discussed ideas for future consideration, including the option of creating a subcommittee to work on potential amendments to the program.

There were no public speakers.

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DRAFT

7. 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 at the last meeting, the committee decided that the Sunshine report card will be pushed back to closer to the end of 2021. The data will be evaluated and a potential tool developed for ongoing review of public records response.

There were no public speakers.

INFORMATION ITEMS

8. Disclosure and Engagement.

Suzanne Doran, Lead Analyst, reported on the latest disclosure and engagement activities. Ms. Doran answered questions from the Commissioners.

There were no public speakers.

9. Enforcement Program.

Kellie Johnson, Enforcement Chief, reported on the Commission’s enforcement work since the last regular Commission meeting. Ms. Johnson shared that Vickie Ma has been hired as an investigator.

There were no public speakers.

10. Executive Director’s Report.

Ms. Barazoto reported on overall projects, priorities, and significant activities since the Commission’s last meeting. She shared that the legislation had passed the 1st reading in Council and would be on the consent calendar for December 15, 2020.

There were no public speakers.

The meeting adjourned at 7:29 p.m.

Item 5 - PEC Operations Policies - Effective 1-1-16



CITY OF OAKLAND PUBLIC ETHICS COMMISSION

OPERATIONS POLICIES *Effective January 1, 2016*

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Item 5 - PEC Operations Policies - Effective 1-1-16

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Item 5 - PEC Operations Policies - Effective 1-1-16

ARTICLE I - MISSION STATEMENT

The Public Ethics Commission (Commission) ensures compliance with the City of Oakland's government ethics, campaign finance, transparency, and lobbyist registration laws that aim to promote fairness, openness, honesty, and integrity in city government. To fulfill its mission, the Commission conducts the following activities:

- A. **Lead/Collaborate** – Lead by example and facilitate city policy, management, and technological changes to further the Commission's mission.
- B. **Educate/Engage** – Provide education, advice, technical assistance, and formal legal opinions to promote awareness and understanding of the city's campaign finance, ethics, and transparency laws.
- C. **Disclose/Illuminate** – Facilitate accurate, effective, and accessible disclosure of government integrity data, such as campaign finance reporting, conflicts of interest/gifts reports, and lobbyist activities, all of which help the public and PEC staff monitor filings, view information, and detect inconsistencies or noncompliance.
- D. **Detect/Deter** – Conduct investigations and audits to monitor compliance with the laws within the Commission's jurisdiction.
- E. **Prosecute** – Enforce violations of the laws within the Commission's jurisdiction through administrative or civil remedies.

ARTICLE II - JURISDICTION, APPLICABLE LAW

The Commission was created by City Charter in 1996 (Section 202), which was amended in November 2014 (Section 202, 603) to strengthen the Commission's authority, independence and staffing. The Commission oversees compliance with the following laws:

- A. The City of Oakland Government Ethics Act (O.M.C. chapter 2.25);
- B. The City of Oakland Campaign Reform Act (O.M.C. chapter 3.12);
- C. Limited Public Financing Act of the City of Oakland (O.M.C. chapter 3.13);
- D. Oakland Sunshine Ordinance (O.M.C. chapter 2.20);
- E. The City of Oakland Lobbyist Registration Act (O.M.C. chapter 3.20); and
- F. Oakland False Endorsement in Campaign Literature act (O.M.C. chapter 3.14).

The Commission must comply with all applicable laws, including but not limited to:

- A. Oakland City Charter, including but not limited to Sections 202 and 603;
- B. Public Ethics Commission Operations Ordinance (O.M.C. chapter 2.24);
- C. Oakland Sunshine Ordinance, the California Ralph M. Brown Act (Gov. Code sections 54950, *et seq.*) and the California Public Records Act (Gov. Code sections 6250, *et seq.*);
- D. The City of Oakland Government Ethics Act (O.M.C. chapter 2.25); and
- E. These Operations Policies and other policies adopted by the Commission.

Item 5 - PEC Operations Policies - Effective 1-1-16

ARTICLE III - COMMISSION STRUCTURE AND SUPPORT

Section 1: Commission

The Public Ethics Commission is a seven-member board of Oakland residents responsible for establishing Commission policies and priorities, promoting government transparency, and serving as a quasi-judicial body that adjudicates enforcement matters brought to the Commission by staff.

Acceptance of the Oath of Public Office constitutes a commissioner's sworn responsibility to the public trust. Commissioners must collectively and individually respect and honor their appointed role and strive to maintain public confidence in the Commission's role in the government of the city of Oakland.

Section 2: Executive Director

The Executive Director reports to the Chair and to the Commission and is responsible for establishing staff priorities in consultation with the Chair and consistent with policy direction provided by the Commission.

The Chair or designee must prepare a periodic, written performance review of the Executive Director subject to the review and approval by the Commission in closed session. At any time, at the request of one or more commissioners, the Chair may call and notice a closed session of the Commission to discuss the performance of the Executive Director.

Section 3: Commission Staff

The Executive Director leads and supervises Commission staff and has the authority to hire and remove employees within constraints set by the Civil Service Commission, the Personnel Department, and the Commission's budget.

Section 4: Legal Advisor

The City Attorney is the Commission's legal advisor. Any commissioner may consult informally with an attorney assigned to the Commission on any matter related to Commission business. However, a request from a commissioner for assistance requiring significant legal research, a substantial amount of time and attention, or a written response must be authorized by the Executive Director, the Chair, or by a majority vote of the Commission or one of its Committees.

Section 5: Commission Spokesperson

The spokesperson for the Commission is the Executive Director or designee, the Chair, or the Vice Chair if the Chair is unavailable.

ARTICLE IV – OFFICERS

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Section 1: Election of Officers

The officers of the Commission are the Chair and Vice Chair. At the first regular meeting of each year, commissioners must elect a Chair and Vice Chair. At the meeting, a commissioner may nominate any commissioner to serve in the office of Chair or Vice Chair. If more than one commissioner is nominated for an office, each nominee may speak regarding their qualifications and willingness to serve and answer questions of commissioners or the public. The Commission may discuss the nominations and, when the vote is called, each commissioner may cast a single vote for each office.

Section 2: Chair

The Chair presides at all meetings of the Commission and is an ex-officio member of all standing committees. The Chair is accountable to the Commission as a whole in setting policy.

Section 3: Vice Chair

The Vice Chair performs the duties and responsibilities that may be delegated by the Chair. In the absence or disability of the Chair, the Vice Chair will perform the duties and responsibilities of the Chair.

ARTICLE V - COMMITTEES

Section 1: Standing and Ad Hoc Committees

It is the policy of the Commission to appoint individual commissioners to perform specific tasks or functions by serving on standing or ad hoc committees. Thus, as necessary, the Chair may create a standing or ad hoc committee, identify its purpose, appoint commissioners as members, and designate a Committee Chair.

Terms of ad hoc committees may not exceed one year. Membership on ad hoc committees may not exceed three commissioners.

Commission staff will post a list of the Commission's current committees and committee membership on the Commission's website.

Section 2: Committee Meetings

Committee meetings may be called by the Chair, the committee's chair, or by majority vote of members of the committee.

Meetings of standing committees follow the same procedures provided under Article VI, sections 3 through 7 of these Operations Policies.

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Section 3: Committee Quorum

A majority of the members of a committee constitutes a quorum.

ARTICLE VI - COMMISSION MEETINGS

Section 1: Meetings: Time, Public Location, Notice

The Commission must hold regular meetings at an established time and place suitable for its purposes, and consistent with the requirements of the Brown Act and Sunshine Ordinance. Generally, regular Commission meetings are held on the first Monday of each month at 6:30 p.m., or as otherwise set forth in the published calendar and posted on the Commission's website with the proper notice. Regular meetings are held in Oakland City Hall, One Frank Ogawa Plaza in the city of Oakland, California.

Meetings scheduled for a time or place other than for regular meetings are designated as special meetings.

Written notice of regular meetings and special meetings must be provided at least 10 days or 72 hours in advance, respectively, in the manner required by Charter section 1205, the Oakland Sunshine Ordinance, and the Brown Act.

Section 2: Quorum

At all meetings of the full Commission, the presence of four (4) commissioners constitutes a quorum. (Charter section 603(d)(4).) No action can be taken on an agenda item unless at least four (4) commissioners are present. If ever during a meeting there is less than a quorum present, a motion to adjourn is appropriate; absent objection, debate can be continued, but no vote taken, except to adjourn. When a quorum exists, official action requires a majority vote of those commissioners present when the vote is called, unless otherwise provided by the Charter (e.g., for certain enforcement matters and for removal of the Executive Director).

Section 3: Public Engagement

The Commission values and encourages public input and, regarding public participation in Commission proceedings, will liberally construe the public's rights under the Brown Act and Sunshine Ordinance. The Commission proactively develops and promotes new channels for public participation in local government beyond the minimum legal requirements, for example, by utilizing new technology and social media tools to facilitate greater public access to government information and proceedings; conducting special meetings and hearings on relevant issues; collaborating with civic groups on issues and projects within the Commission's jurisdiction; and engaging in affirmative public outreach through non-traditional means.

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All interested persons are encouraged to provide input or request information regarding Commission business by contacting Commission staff at (510) 238-3593 or ethicscommission@oaklandnet.com, or view information online at www.oaklandnet.com/pec.

At each regular Commission meeting, all interested persons may express their views regarding a matter within the jurisdiction of the Commission. This opportunity for comment, called "Open Forum," will appear on each agenda. Ordinarily, each speaker may speak for up to three minutes, but the Chair, in his or her discretion, may limit or extend the time, provided such changes are reasonable in nature and uniformly applied. The Commission may also limit the time for public comment under Open Forum to a total of 15 minutes.

At regular and special Commission or Committee meetings, all interested persons must also be allowed to express their views on any agenda item upon the Commission's review of the item. Before taking action on any agenda item, the Commission (or Committee) must provide the opportunity for public comment on that item. Each person wishing to speak on an agenda item is permitted to speak once, for a minimum of two minutes; however, the Chair, in his or her discretion, may limit or extend the time, provided such changes are reasonable in nature and uniformly applied.

The Commission urges the public not to make complaints or ask the Commission to investigate alleged legal violations at public meetings since the public disclosure of such complaints or requests may undermine any subsequent investigation undertaken.

Section 4: Public Participation at Meetings

The agenda for each meeting must provide instructions for public participation. To encourage public participation, the Commission will employ the least formal, least restrictive procedures for public comment, so long as order is maintained.

In the event that the complexity of the issues, number of anticipated participants, or other factors suggest that greater formality is required to maintain order or protect the public's right to participate, the Commission may utilize a more formal process (such as the "speaker card" procedure set forth in City Council Procedures Rule 12). In that case, the agenda will describe the process, including any special requirements, for public participation.

If during the course of a meeting it becomes apparent that the existing procedure for public comment is inadequate or inappropriate, the Chair may exercise his or her discretion to modify the procedure during the meeting. In that case, the Chair must state the reasons justifying the change in procedure, clearly explain how members of the public may provide comment as to each agenda item, and apply the modified process uniformly to all speakers.

Section 5: Chair

The Chair must maintain order in the chamber, has authority to refuse the floor to any person, and may limit or extend the time allocated to any speaker.

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The Chair may rule a public speaker out of order if:

- A. the speaker is speaking beyond the allocated time limit;
- B. the speaker's remarks are not relevant to the agenda item or are repetitious; or,
- C. the manner, tone and content of the speaker's remarks are disruptive (disturb the peace and good order of the meeting), attack the character of individuals or are abusive (vulgar or obscene language).

The public has the right to criticize policies, procedures, programs, or services of the city, the Commission or of any other aspect of the city's or Commission's proposals or activities, or the acts or omissions of the Commission or its staff or other public employees. The Commission will not abridge or prohibit public criticism on the basis that the performance of one or more public employees is implicated. Nothing in this section confers any privilege or protection beyond that which is otherwise provided by law.

Section 6: Meeting Minutes

Commission staff will draft minutes after every regular and special Commission meeting, and every standing committee meeting, subject to approval by majority vote of the Commission or respective committee. The minutes must reflect meeting start and end time, commissioner attendance (including the absence of any commissioner for any votes taken), summary of each item, and vote (if applicable) for each item considered.

Section 7: Closed Sessions

Upon the determination by a legal advisor from the City Attorney's Office that a closed session is both authorized and appropriate under the circumstances, the Commission may call for a closed session. Appropriate notice must be given of all closed sessions.

Section 8: Recess

The Commission recesses for a period of one month each year. During this annual recess, the Chair may convene the Commission for special meetings, and the chair of a standing or ad hoc committee may convene a committee meeting.

ARTICLE VII - AGENDA REQUIREMENTS

Section 1: Agenda Preparation

Commission staff will work with the Commission Chair or standing Committee chair(s) to develop the agenda for all meetings. The agenda must be approved by the appropriate Chair and must contain a meaningful description of each item to be transacted or discussed at the Commission or committee meeting so that a person can reasonably determine if the item may affect his or her interests. The agenda also will provide instructions for public participation.

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Section 2: Consent Calendar

A consent calendar is the portion of the printed agenda that lists routine matters that are expected to be non-controversial and on which there are no scheduled speakers. There will be no separate discussions on a consent calendar item unless, prior to its adoption, a request is made by a commissioner or the public, and accepted by the Commission, to remove the item from consent and consider it as a separate item.

ARTICLE VIII - VOTING

Section 1: Voting, Abstention, and Recusal

Each commissioner present at a Commission or committee meeting must vote on all matters put to a vote, unless the commissioner abstains or recuses him- or herself from a particular matter.

A commissioner wishing to abstain from a vote must state publicly the reason for abstention and move for Commission approval. If the motion passes, the abstaining commissioner must refrain from further discussion of the item and will not vote on the item.

A commissioner who has been advised by the City Attorney to recuse himself or herself from voting on an item due to a conflict of interest must recuse him or herself and leave the dais during discussion and voting on the item. A commissioner who recuses as to a particular item is not present for purposes of determining the existence of a quorum in Article VI, section 2, above.

Section 2: Voting by Proxy

Voting by proxy is prohibited.

ARTICLE IX - TREATMENT OF CONFIDENTIAL INFORMATION

In the course of their duties, commissioners may be exposed to privileged, confidential, or other information protected by law. While commissioners enjoy the full protection of the First Amendment and the public is entitled full access to public information, misuse of confidential information may have significant adverse consequences to the city, the Commission, city employees, or other individuals.

Section 1: Confidential Information

Generally, "Confidential Information," includes the following:

- A. Any information concerning a complaint that is still under preliminary review;
- B. Any communication or information provided to commissioners in preparation for, or during, a duly authorized closed session;

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- C. Any communications by or from the City Attorney or any legal advisor to the Commission that reflect the legal advisor's work on behalf of the Commission, including the advisor's mental impressions, legal strategy, analysis, advice or conclusions;
- D. Non-public materials concerning pending or past litigation to which the Commission is/was a party;
- E. Information concerning Commission personnel matters, including but not limited to those concerning the hiring, performance, counseling, discipline or termination of any member or prospective member of Commission staff; or
- F. Other sensitive personal or financial information of third parties (including respondents to complaints) that would otherwise be protected by law.

Confidential Information does not include information generally available to the public or previously disclosed to members of the public, including at a Commission meeting. Nor does it include information that is required by law to be reported out of closed session.

The fact that Commission staff shares confidential information with another enforcement agency such as a District Attorney's Office, the California Fair Political Practices Commission, or the Federal Bureau of Investigation, does not render the information non-confidential.

Section 2: Prohibitions on Disclosure or Misuse of Confidential Information

Absent express authorization by the Executive Director, Chair, the Commission's legal advisor, or court order, a commissioner is prohibited from disclosing Confidential Information to any person who is not currently serving as a commissioner.

Commissioners are prohibited from using, directly or indirectly, Confidential Information for purposes other than the official business of the Commission.

If a commissioner has any doubt about a person's authorization to access Commission confidential information or is uncertain whether a particular use could constitute "misuse," the commissioner must, before disclosing or using the information, consult the Executive Director.

Section 3: Affirmative Duty to Safeguard Confidential Information

Commissioners must actively protect and safeguard Confidential Information through the use of physical and technical safeguards (e.g., strong passwords for access to electronically stored information) and secure methods of destruction, once materials are no longer needed.

A commissioner who discovers an unauthorized disclosure or misuse (potential or actual) of Commission confidential information must promptly notify the Executive Director. Similarly, a commissioner who receives a request, subpoena, or court order for disclosure of Commission confidential information must immediately notify the Executive Director.

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Section 4: Term of Obligation

A commissioner's obligations pursuant to this Article do not terminate with the end of the commissioner's term of office.

ARTICLE X - PARLIAMENTARY PROCEDURE

Section 1: Robert's Rules of Order (Newly Revised) for Small Boards

The business of the Commission and its standing committees must be conducted, so far as it is practical in accordance with parliamentary rules as contained in Robert's Rules of Order Newly Revised, for Small Boards, except as modified by these rules and in accordance with the Brown Act and the Sunshine Ordinance. The City Attorney, or other person designated by the Chair and approved by the Commission, shall serve as the official parliamentarian for meetings of the Commission.

ARTICLE XI - STANDARDS OF CONDUCT

In addition to complying with the foregoing policies, each commissioner should aspire to:

A. **Actively and diligently support the mission, goals and objectives of the Commission**, for example, by thoroughly preparing for and attending Commission meetings; serving on committees; working cooperatively with Commission staff on officially-sanctioned projects; and attending civic events relevant to the Commission's purpose and jurisdiction.

B. **Preserve public confidence in commissioners' conduct, intentions, and impartiality**, for example, by fairly and objectively enforcing laws and regulations within the Commission's jurisdiction; refraining from conduct or statements that suggest personal bias; avoiding personal involvement in the investigation and prosecution of complaints (absent a recusal); and avoiding inappropriate political activity (endorsing, supporting, opposing, or working on behalf of a candidate or measure in an Oakland election).

C. **Protect the independence and integrity of the Commission**, for example, by working for the public good and not private interest in all matters related to city government; refraining from using their official positions to secure special advantages or benefits for self or others; declining to accept benefits or to participate in activities that might influence or undermine their ability to fairly and objectively discharge their Commission duties; and, if speaking to the press or public about a Commission matter, clearly explaining that the commissioner's statements reflect the personal view of the commissioner and not the view of the Commission.

D. **Set the highest example civil and efficient conduct of city government**, for example, by recommending and adopting rules and procedures that promote transparency and fair process in city government; treating the public, Commission staff, Commission legal advisors, and fellow

Item 5 - PEC Operations Policies - Effective 1-1-16

commissioners with dignity and fairness; and conducting the Commission's business in an efficient and timely manner.

ARTICLE XII - OPERATIONS POLICIES AMENDMENTS

As necessary, the Commission will review and amend these Operations Policies as provided by the Operations Ordinance. (O.M.C. section 2.24.070.) In so doing, the Commission must provide notice of any amendments to the City Council as required by the Public Ethics Commission Operations Ordinance.



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: Kellie Johnson, Enforcement Chief
DATE: December 15, 2020
RE: *In the Matter of Anthony Harbaugh (Case No. 18-11)*; Post Hearing Recommendation for the January 4, 2020, PEC Meeting

INTRODUCTION

The Enforcement Unit of the City of Oakland Public Ethics Commission (“Complainant”) brought this action to address violations of the Government Ethics Act (“GEA”) by former Oakland Building Inspector Anthony Harbaugh (“Respondent”). Complainant charged Respondent with thirteen separate violations of the Government Ethics Act: Soliciting and Receiving Bribes; Misusing City Position, Conflicts of Interest; Making or Seeking to Use His Official Position to Influence Governmental Decisions; Failing to Report Economic Interest Disclosure; Misuse of City Resources; Soliciting or Accepting Gifts; and Failing to Report Gifts. A two-day hearing before Hearing Officer Jodi Smith occurred on November 18 and 19, 2020. Complainant was required to show that the violations occurred by a preponderance of the evidence.

At the conclusion of the hearing, Enforcement Staff informed the Hearing Officer that the violations of the Gift Ordinance were alternative theories and that if at the conclusion of the evidence the Hearing Officer found that the money the Respondent received for inspections was income and not gifts, the Gift Ordinance violations should be dismissed (or vice versa). Staff also recommended a base-level penalty amount of \$5,000 per GEA violation pursuant to the PEC Penalty Guidelines, for a total of \$65,000.

Respondent denied that he committed any violations of the Government Ethics Act.

Hearing Officer Smith submitted a recommendation to the Commission with findings of fact that conclude the Respondent violated nine (9) separate provisions of the Government Ethics Act and a recommendation of an administrative penalty in the amount of \$22,000.

Staff reviewed the Hearing Officer’s report and joins in the recommendation that the Commission adopt the findings of facts as determined by the Hearing Officer. Staff will defer to the Commission on the imposition of an appropriate penalty amount.

I. BRIEF HISTORY

In October 2016, during the course of a pro-active investigation into the alleged bribery and misuse of position by building inspector Thomas Espinosa, Commission Staff found that an additional City building

inspector, Anthony Harbaugh, participated in and/or aided and abetted Thomas Espinosa in committing multiple violations of the Oakland Government Ethics Act, including the following: soliciting and receiving bribes; making, and seeking to use his official position to influence, governmental decisions in which he had a disqualifying financial interest; misusing City resources for personal financial gain; misusing his City position to induce/coerce others to provide him with economic gain, and; failing to report significant income from individuals with matters before him as a City building inspector.

In sum, Between January 2015 and December 2016, Thomas Espinosa planned and executed inspections and unlawful permit approvals on multiple properties within the City of Oakland and induced property owners to pay him directly for his service. Harbaugh actively participated in and assisted in the execution of Espinosa's inspection bribery scheme and was also paid money, under the table, for conducting inspections and approving permits.

II. PROPOSED DECISION

a. VIOLATIONS

The Hearing Officer's proposed decision finds that the Respondent, Anthony Harbaugh, committed the following violations of the Government Ethics Act:

1. Count 1: Soliciting and Receiving Bribes in Exchange for Performance of an Official Act

On or between January 1, 2015 through December 31, 2016, Respondent, Anthony Harbaugh, violated O.M.C.2.25.070(A) of the Oakland Government Ethics Act by demanding, seeking, receiving, accepting or agreeing to receive or accept money or a thing of value as a bribe to influence his government actions as a building inspector for the City of Oakland, for personal enjoyment and/or non-government purposes.

On or between January 2015 and December 2016, Respondent violated Section 2.25.070 (A) of the Oakland Government Ethics Act by soliciting \$300 from Ms. Williams in exchange for a "Pass" result on an electrical inspection at her Mead Ave. property.

2. Count 2: Misusing City position to induce/coerce others to provide him with economic gain

On or between January 1, 2015, through December 31, 2016, Respondent, Anthony Harbaugh, refused to complete a record of a final inspection at the Mead Ave. property owned by Elizabeth Williams, for the purpose of inducing or coercing Ms. Williams into providing the Respondent with a payment.

By using his authority as a City official to induce or coerce a person to provide him with an economic gain, Respondent violated Section 2.25.060 (A) (2). of the Oakland Government Ethics Act.

3. Count 3: Conflict of Interest Violation: Make or Participate in Making a Governmental Decision Involving a Source of Income

Item 6a - Staff Memo 18-11 Harbaugh

A City employee uses his or her official position to make or participate in making a decision when he or she has a financial interest within the California Political Reform Act.

On or between January 2015 and December 2016, Respondent, Anthony Harbaugh, violated Section 2.25.040(A) by making a decision on behalf of the Oakland Building Department to issue Elizabeth Williams a “Pass” result on an electrical inspection at her Mead Ave. property in Oakland, when he had a financial interest within the meaning of the California Political Reform Act.

4. Count 4: Conflict of Interest Violation: Make or Participate in Making a Governmental Decision Involving a Source of Income

A City employee uses his or her official position to make or participate in making a decision when he or she has a financial interest within the California Political Reform Act.

On or between January 2015 and December 2016, Respondent, Anthony Harbaugh, violated Section 2.25.040(A) by making a decision on behalf of the Oakland Building Department to issue Elizabeth Williams a “Pass” result on an inspection for remodel construction at her Market Street property in Oakland, when he had a financial interest within the meaning of the California Political Reform Act.

5. Count 5: Conflict of Interest Make or Participate in Making a Governmental Decision Involving a Source of Income

A City employee uses his or her official position to make or participate in making a decision when he or she has a financial interest within the California Political Reform Act.

On or between January 2015 and December 2016, Respondent, Anthony Harbaugh, violated Section 2.25.040(A) by making a decision on behalf of the Oakland Building Department to issue Elizabeth Williams a “Pass” result on an electrical, plumbing and frame inspection at her 877 27th Street property in Oakland, when he had a financial interest within the meaning of the California Political Reform Act.

6. Count 6: Conflict of Interest Violation: Make or Participate in Making Governmental Decision Involving a Source of Income

A City employee uses his or her official position to make or participate in making a decision when he or she has a financial interest within the California Political Reform Act.

On or between January 2015 and December 2016, Respondent, Anthony Harbaugh, violated Section 2.25.040(A) by making a decision on behalf of the Oakland Building Department to issue Bill Charman a “Pass” result on the frame and final inspection at his “Gimme Shelter” 4163 Rifle Lane property in Oakland, when he had a financial interest within the meaning of the California Political Reform Act.

7. Count 9: Making or Seeking to Use His Official Position to Make Governmental Decisions in Which He Had a Disqualifying Financial Interest

As a City employee, Respondent was prohibited from making, participating in making, or attempting to use his official position to influence a governmental decision in which he had a disqualifying financial interest.

An official has a disqualifying financial interest in any governmental decision that involves an individual from whom the official was promised or provided income totaling \$500 or more within 12 months prior to the time when the governmental decision is made.

On or between January 1, 2015 through December 31, 2016, Respondent, Anthony Harbaugh, violated O.M.C.2.25.040(A) of the Oakland Government Ethics Act by using his official position make a governmental decision to issue Elizabeth Williams building permits, for multiple properties, when that decision involved an individual from whom he was promised or provided income totaling \$500 or more within 12 months prior to the time the decision to issue permits were made.

8. Count 10: Economic Interest Disclosure Violation: Failing to Report a Source of Income

On or between January 1, 2015 through September 24, 2016, Respondent, Anthony Harbaugh, a Building Inspector with the City of Oakland, violated Oakland Government Ethics Act 2.25.040(B) when he failed to report income he received from Elizabeth Williams.

A Building Inspector is required to report all sources from whom he received income, totaling \$500 or more during the January 1 through December 31, 2015, period by April 1, 2016.

9. Count 11: Misuse of City Resources for personal financial gain

On or between January 1, 2015, through December 31, 2016, Respondent Anthony Harbaugh, violated O.M.C. 2.25.060 (A)(1) of the Oakland Government Ethics Act by using the following: A City-owned vehicle, computer and printer, and cell phone for personal or non-government purposes.

b. PENALTY

The Hearing Officer's proposed decision recommends that the Commission impose a total administrative penalty of **\$22,000** for the nine (9) violations of the Government Ethics Act.

III. POSSIBLE ACTIONS BY THE COMMISSION

Pursuant to the Commission's Complaint Procedures, the Commission may either adopt the proposed decision in its entirety, or in the alternative, adopt the proposed decisions' actual finding, but reach additional or different conclusions consistent with the proposed decision's factual findings. (Commission's Complaint Procedures § VII(I)(2).)

If the Commission decides to adopt the proposed decision in its entirety, the proposed decision will be adopted as the Commission's decision and the Respondent will be ordered to pay an administrative penalty of \$22,000.

If the Commission decides that the proposed decision's factual findings warrant a different legal conclusion and/or a different penalty, the Commission may adopt the proposed decision's factual finding and additional or different legal conclusions and/or impose a different penalty.

Whether the Commission decides to adopt the proposed decision in its entirety or adopt different legal conclusions and/or penalties, the Commission's decision and order regarding a proposed decision will constitute the closure of the administrative process for this matter. (Commission's Complaint Procedures § VII(J).)

Aggravating Factors

The PEC has broad discretion in evaluating a violation and determining the appropriate penalty based on the totality of circumstances. This list of factors to consider is not an exhaustive list, but rather a sampling of factors that could be considered. There is no requirement or intention that each factor – or any specific number of factors - be present in an enforcement action when determining a penalty. As such, the ability or inability to prove or disprove any factor or group of factors shall in no way restrict the PEC's power to bring an enforcement action or impose a penalty

For serious violations, such as Bribery and violations that do not qualify for a warning letter or the streamlined stipulation program, the PEC will start a penalty amount with a “base-level” amount and then adjust the penalty amount based on mitigating and aggravating factors of the enforcement action.

Here, the circumstances of Harbaugh's conduct establish several aggravating factors, including Harbaughs lack of veracity, that should increase the severity of the penalty:

1. The Respondent is a public servant in a high-level decision-making position that abused his position of trust and authority. His willful abuse of a trusted position of authority designed to protect the public and the safety of their homes posed great harm to the Oakland Community;
2. Harbaugh engaged in several instances of deception to cover up the inspections of which he was getting paid under the table, including failing to properly log the Accela system, failing to note the property owner's job card and assigning himself to inspections that he was not assigned to do. Most egregious was that he deliberately entered a misrepresentation into the Accela data base representing that he inspected a property and approved the permit when, in fact, he had not;
3. Harbaughs conduct was deliberate, including multiple instances where he changed assigned inspectors to jobs for his own personal gain;
4. His conduct was part of a pattern of conduct that went on for several months;
5. Harbaugh has failed to take any steps to cure any of the enumerated violations. For example, he has not informed the Planning and Building Department of the specific property that he failed to inspect and yet misrepresented that he had conducted its inspection; and
6. At the time of the Respondent's conduct he had worked for the Oakland Planning and Building Department for more than seven years. Harbaugh was a seasoned public servant, well versed in the department's policies against receiving personal payments under the table and the requirement to input accurate data into the Accela database. He chose to ignore them for his own personal gain.

Mitigating Factors

As far as the PEC is aware, Harbaugh has no previous history of violations in the City of Oakland.

IV. COMMISSION STAFF RECOMMENDATION

Commission Staff recommends that the Commission adopt the Hearing Officer's proposed factual and legal findings. Staff will defer to the Commission the imposition of the appropriate administrative penalty.

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BEFORE THE CITY OF OAKLAND PUBLIC ETHICS COMMISSION
HEARING OFFICER JODIE SMITH

In the Matter of:

ANTHONY HARBAUGH, et al.,

Respondent.

Case No. 18-11

**FINIDNGS OF FACT AND
CONCLUSIONS**

1. Hearing Officer Jodie Smith heard this case on November 18, 2020 and November 19, 2020 over internet video conferencing equipment. Kellie Johnson, Enforcement Chief, represented petitioner, the Public Ethics Commission (PEC) Enforcement Unit. Respondent Anthony Harbaugh represented himself.

2. The record was closed, and the case submitted on November 19, 2020.

A. STANDARD OF EVIDENCE AND BURDEN OF PROOF

3. The standard of proof applied to this hearing is the preponderance of evidence.¹ The burden of proof is on the petitioner.² This means that the petitioner had to demonstrate that the weight of the evidence shows that it was more likely than not—a 50% or greater likelihood—that respondent violated the law. To withstand a request for re-hearing, the proposed Findings of Fact

¹ Cal. Evid. Code §115; PEC Complaint Procedures § VII.I.4.

² Cal. Evid. Code §500.

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1 may not contain a material error of fact that necessarily affects one or more conclusions and the
2 conclusions must be supported by substantial evidence.³

3 **B. FINDINGS OF FACT**

4 4. Petitioner is the Enforcement Unit of the City of Oakland PEC.

5 5. During all relevant time frames discussed below, respondent was an employee of the
6 City of Oakland, working as a Specialty Combination Inspector ("Building Permit Inspector") in
7 the City of Oakland Planning and Building Department ("PBD").

8 6. On March 2, 2020 at its regular monthly meeting, PEC staff presented its
9 Investigation Summary and Probable Cause memorandum on respondent's case as Item No. 5 on its
10 agenda. Respondent was not present. The PEC found probable cause to set this matter for hearing
11 before a single Hearing Officer. The hearing date was set for November 18, 2020. No preliminary
12 matters were raised before the hearing commenced with testamentary and documentary evidence.
13 The PEC hearing requirements have all been followed.

14 **1. Petitioner's Case**

15 7. Five days before the hearing, petitioner submitted petitioner's Exhibit Nos. 1-28
16 listed in **Appendix A**, attached to and incorporated into these Findings and Conclusions. Petitioner
17 also submitted petitioner's 15-page Hearing Brief. Petitioner offered one witness: PEC
18 Investigator Simon Russell, who was sworn in by the hearing officer before testifying. He testified
19 under penalty of perjury. Mr. Russell has been an investigator with the PEC for just under five years.
20 Prior to that, he was a Special Investigator with the Fair Political Practices Commission ("FPPC") for
21 three and a half years. One of his duties as an investigator at both agencies is to investigate general
22 ethics allegations including bribery, extortion, misuse of government resources, conflicts, gifts, and
23 reporting economic interests. Mr. Russell was the investigator on Case 16-11 (Thomas Espinosa) and
24 Case 18-11 (Anthony Harbaugh).

25 8. Petitioner's theory of this case is that it involves a quid pro quo extortion racket

26 _____
³ PEC Complaint Procedures §VII.I.1.a.

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1 among respondent, his co-worker Building Code Inspector Thomas Espinosa and the property
2 owners or their representatives (collectively, "Owners") who were seeking passing inspections.
3 Petitioner's witness testified that the Owners paid respondent through Mr. Espinosa to pass their
4 inspections regardless of whether the work was up to code. These passed inspections potentially
5 could have resulted in serious health, life and safety issues as they dealt with inspecting and
6 certifying plumbing, electric, mechanical and foundational work.

7 9. The PBD consists of two sub-departments: the Planning half which reviews all
8 development plans to ensure compliance with city zoning codes and the Building half which
9 performs all of the inspections to ensure the plans and the actual products conform to the city's
10 various building code requirements.

11 10. Within the Building half of PBD, there are two types of inspectors: Code Inspectors
12 look for building code violations either proactively or through public complaints. They are able to
13 issue Notices of Violations (NOV) and Stop Work Orders (SWO) when violations are found. Their
14 initial inspections are typically unscheduled and unplanned, although follow-up violation
15 inspections may be scheduled. Conversely, Building Permit Inspectors review the ongoing
16 progress of development projects to ensure that the work being performed conforms to the permits
17 that were issued. Respondent was a Building Permit Inspector and Mr. Espinosa was a Building
18 Code Inspector.

19 11. Building Permit Inspectors' inspections are always scheduled in advance through
20 city scheduling software known as "Accela." Accela also allows Building Permit Inspectors to
21 enter whether a project passed its inspections on each development project. If projects do not pass,
22 then they are given the designation "Partial" or "Not Pass" and the Owners are told what work is
23 necessary before a "Pass" will be given.

24 12. PBD employs specific employees to schedule and assign inspections to Building
25 Permit Inspectors. These schedules are then given to the Building Permit Inspectors and usually are
26 grouped geographically. The only exception to this scheduling protocol is when a Building Permit

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1 Inspector has a quick follow up inspection to perform within the geographical area to which their
2 other scheduled inspections are set for the day: in these instances, the Building Permit Inspector
3 will enter the follow up inspection in Accela themselves. Each Inspector and Technician (see
4 Paragraph 14, below) have their own unique user ID in Accela which appears next to every entry
5 they make. They each also have unique log in credentials to prevent fraud. The only way to use
6 another employee's credentials to create Accela entries is to physically take and use their
7 credentials.

8 13. In addition to the city's electronic inspection records, each Owner retains a paper
9 "Job Card" at the job site that is the Owner's record of whether the development project passed its
10 inspections or needs additional work performed before it will pass. PBD does not maintain any
11 copies of the Job Cards.

12 14. Projects start when Owners submit their applications and plans to PBD at the front
13 counter where Building or Permit Technicians review them for, among others, three things relevant
14 to this matter: (1) whether the project site has any outstanding code violations on it; (2) whether the
15 project requires additional "trade" permits;⁴ and (3) whether the estimated cost of the project is
16 accurate.⁵

17 15. Once the project passes through the application stage, there are three inspections
18 which are performed: (1) a field inspection, to ensure that the work represented in the application
19 conforms to the work being done "in the field;" (2) a "rough" or "frame" inspection which takes
20 place before the walls and floors are covered over; and (3) a final inspection.

21 16. Petitioner's witness testified that he uncovered a pattern by respondent whereby
22 respondent would assign or reassign inspections to himself in Accela, usually accompanied by
23 multiple phone calls between himself and Mr. Espinosa, culminating in respondent giving an
24 Owners' project a "pass" on an inspection. Petitioner further uncovered that the Accela entries
25

26 ⁴ These could include mechanical, plumbing or building permits depending upon the specific project.

⁵ This is important because the permit fees are calculated based upon these project cost estimates.

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1 would all occur within minutes of each other (from creation to assignment to passing) or they were
2 backdated, meaning that the Accela entry was created *after* the inspection physically took place. In
3 addition, petitioner found a number of respondent's "pass" inspections that were noted on the Job
4 Cards had no corresponding Accela entries whatsoever. Finally, petitioner obtained testamentary
5 evidence showing that respondent received cash payments for passing inspections over and above
6 what the Owners paid to the Building or Permit Technicians at the counter when submitting their
7 applications and plans. Reasonable inferences drawn from petitioner's documentary evidence
8 supported petitioner's testimonial evidence on this issue.

9 17. Respondent's activities were grouped around three separate and distinct sets of
10 properties: Elizabeth Williams properties, Alex Machado properties and one property managed by
11 an organization called Gimme Shelter.

12 (a) **Elizabeth Warren Properties**

13 18. Elizabeth Williams is a landlord who owned multiple residential rental properties in
14 Oakland. These properties included: 857-859 Mead Avenue; 2735 Market Street; and 877 27th
15 Street.

16 19. Ms. Williams was granted immunity by the federal government for her testimony.
17 Her immunity grant was contingent upon her providing truthful answers to all of the PEC and FBI's
18 questions.

19 20. Ms. Williams' interview statements indicated that she hired Mr. Espinosa to
20 renovate her properties and that she paid Mr. Espinosa in order to "pass" her inspections.

21 i. **857-859 Mead Avenue Properties**

22 21. Between 2015 and 2016, Ms. Williams hired Mr. Espinosa to remodel some of her
23 properties at 857-859 Mead Avenue that were having trouble passing inspections. 859 Mead
24 Avenue is a four-unit apartment building that Ms. Williams owns in West Oakland. The property
25 also includes a house at 857 Mead. Exhibit Nos. 1-5 and 25.

26 22. On January 13, 2016, respondent personally conducted the inspection on this

Item 6b - Hearing Officer's Recommendation

1 property. He gave her a "Pass" on the electrical inspection, despite the fact that the electrical
2 inspection had previously been failed twice by two different inspectors. Exhibit No. 2, page 9.
3 According to respondent's supervisor, respondent was scheduled to conduct inspections in East
4 Oakland on January 13, 2016, and would not have had reason to conduct an inspection in West
5 Oakland where the Mead property is located. Exhibit No. 25, para. 36.

6 23. On the day after the physical inspection took place, January 14, 2016, around 8:56
7 am, respondent logged into Accela and entered that, on the previous day, at 12:30 pm on January
8 13, 2016, he conducted the inspection and gave the property a "Pass" for a permit. Exhibit Nos. 2-5
9 and 25.

10 24. Just about a week after the electrical inspection on Mead, on January 22, 2016, Ms.
11 Williams acknowledged that she owed \$300 for the inspector (respondent) who oversaw the
12 electrical inspection. She exchanged a text message with Mr. Espinosa, wherein he referenced
13 respondent performing the electrical inspection, along with a photograph of three \$100 bills, texting
14 "I'm paying right now the 300" just below a photo of the green approval sticker on the electrical
15 meters at the property. In the text, Mr. Espinosa stated that he would get the sticker from
16 "hardball." Exhibit No. 1, pg.2. Petitioner's witness testified that Ms. Williams explained that
17 autocorrect had changed "Harbaugh" to "hardball." Mr. Espinosa also asked Ms. Williams in the
18 same text thread, "do you think I have the \$300 coming that I paid the inspector on your
19 electrical[?]" Exhibit No. 1.

20 25. Mr. Espinosa also gave Ms. Williams a handwritten bill for "\$300 for previous
21 electrical final 857-859 Mead." Exhibit No. 7.

22 26. On at least one occasion, Ms. Williams called respondent to inquire why another
23 inspection on this property had not yet been entered into Accela, even though respondent had
24 signed the on-site job card and passed the inspection. Ms. Williams told the investigators that
25 respondent told her in that phone call that he had not yet entered the inspection in the official city
26 records in Accela because he had not yet been paid. Exhibit No. 25, para. 20.

Item 6b - Hearing Officer's Recommendation

1 27. Ms. Williams also employed a property manager named Derrick Canada (“Canada”)
2 between 2015-2016, during the relevant renovations of Ms. Williams’ properties, including Mead.
3 When interviewed, Mr. Canada stated that, on at least three occasions, Ms. Williams instructed him
4 to deliver envelopes to respondent. Mr. Canada handed envelopes to respondent two times. He did
5 not look inside the first envelope. The second time, he viewed the envelope’s contents and saw
6 “thousands of dollars.” The third time, he refused to deliver the envelope. During one of the two
7 occasions that he had handed respondent an envelope, Mr. Canada stated that respondent was
8 sitting inside a city-owned vehicle during work hours in the Oakland Hills.

9 28. Mr. Canada believed the payments were in exchange for respondent giving a number
10 of Ms. Williams’ properties a pass on inspections based on the timing of the payments and her
11 properties receiving passing inspections where they had previously failed, some experiencing
12 multiple failures. Exhibit No. 25, para. 21.

13 29. Mr. Canada contacted the PEC on his own well before the PEC opened its
14 investigations into either Mr. Espinosa or respondent; he stated that he felt uncomfortable about the
15 cash-in-an-envelope arrangement and that is why he reached out to the PEC.

16 ii. 2735 Market Street Property

17 30. The Market Street properties are a series of rental units. Ms. Williams conducted
18 unpermitted renovation work on the properties for which she received code violations. After back
19 and forth with the city over safety issues, Ms. Williams hired Mr. Espinosa to do the renovations.

20 31. On September 29th and October 13, 2015, Inspector Bill Bergstrom was scheduled
21 to perform field checks on the Market St. building permit, but the Owner canceled both of them.
22 Inspector Bergstrom made a note in Accela that only “Bill Bergstrom or Greg Clarke can do the
23 field check.” Exhibit Nos. 12, 13 and 25, and Attachment Nos. 5, 8, 9, 11, 15-19 to Exh. 25.

24 32. On October 15, 2015, Inspector Bergstrom conducted a field check of the Market
25 Street property and noted several issues in need of correcting. He did not approve a permit and
26 restated that the walls and floor needed to be uncovered and inspected before a field check would

Item 6b - Hearing Officer's Recommendation

1 be complete. Accela also contained a note that Inspector Bergstrom was to perform the building
2 inspections since he was aware of the history of the building. *Ibid.*

3 33. On October 27, 2015, Mr. Espinosa submitted a new application and obtained new
4 permits on the Market Street property for the same issues and work that Inspector Bergstrom was
5 already involved in inspecting. Within two weeks of Mr. Espinosa obtaining the new permits,
6 respondent performed frame/rough inspections (supposedly with open walls and floors) of the
7 building electrical and plumbing permits and he gave a "Pass" result to each. *Ibid.*

8 34. On November 5, 2015, Mr. Espinosa submitted a handwritten bill to Ms. Williams
9 that included a \$300 amount for "material inspection rough 2735 Market." Frame and rough
10 inspections are the same type of inspection. Ms. Williams paid Mr. Espinosa a check for the billed
11 amount which he deposited into his personal bank account on November 6, 2015. Exhibit No. 7.

12 35. After this payment, on November 20, 2015, respondent performed the final
13 inspections on three of the permits for the Market Street property and again gave a "Pass" result to
14 each. On November 23, 2015, despite the note in Accela that only Inspectors Bergstrom or Clark
15 conduct inspections, these inspections were all reassigned to respondent – three days *after* he
16 physically conducted the inspections. Within ten minutes of the inspection assignment to
17 respondent, he entered records into Accela on the Market Street inspection. Exhibit Nos. 12 and
18 25.

19 36. On December 4, 2015, Tim Low changed respondent's final building inspection
20 from "Pass" to "Partial." Inspector Low did not include an explanation for the change, however, a
21 few days later Inspector Clarke noted in Accela that the permit pulled by Mr. Espinosa did not
22 cover the scope of work outlined in the initial report (specifically it did not cover the balcony and
23 stairs). An inspection was scheduled on the property on January 7, 2016.

24 37. On January 7, 2016, Inspector Clarke conducted an inspection on the Market St.
25 property and gave a "Partially abated" result. Again, on February 9, 2016, Inspector Clarke
26 performed another inspection and gave it a "Partially abated" result. The code case was still

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1 outstanding as of October 2019.

2 38. As explained above in paragraphs 27-29 above, respondent received compensation,
3 estimated to be “thousands of dollars”, from Ms. Williams related to her properties through Derek
4 Canada.

5 **iii. 877 27th Street Property**

6 39. In 2015, Ms. Williams hired Mr. Espinosa to renovate 877 27th Street in Oakland.
7 On November 10, 2015, Mr. Espinosa applied for four permits: (1) a building permit to remodel
8 the kitchen and bathroom; (2) an electrical permit for the kitchen/bathroom remodel; (3) a
9 mechanical permit for the kitchen/bathroom remodel; and (4) a plumbing permit for the
10 kitchen/bathroom remodel. Exhibit Nos. 5, 6, 7 and 25.

11 40. On November 23, 2015, Building Permit Inspector Joanneke Verchuur conducted
12 the frame/rough inspections on the 27th Street property and gave a “Partial” result for the electrical
13 permit and noted in Accela that additional work needed to be done. She gave a “Not Pass” result
14 for the plumbing permit noting several existing issues with the plumbing.

15 41. On or around December 11, 2015, Supervisor David Miles reassigned the inspection
16 of 877 27th Street to two other inspectors, neither of whom was the respondent. Respondent then
17 re-assigned the inspection to himself and re-performed frame/rough inspections at 877 27th Street
18 on those same electrical and plumbing permits. Respondent also performed inspections on the two
19 other permits for building and mechanical and gave a “Pass” result to each one.

20 42. On December 16, 2015, respondent returned to perform another frame/rough
21 inspection on 877 27th Street. On December 17, a day *after* the inspection was physically
22 conducted, he assigned himself to the December 16th inspection and gave the property a “Pass”
23 result in Accela.

24 43. On March 1, 2016, Mr. Espinosa scanned and emailed several documents to Ms.
25 Williams, including a note that had a list of costs. Exhibit No. 7. The list included a notation for
26 877 27th Street and an amount of \$300 written next to it. Attached to the note was an Accela

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1 printout regarding permits at 877 27th Street that included handwritten notes. Written on the note,
2 among other things, was the amount of "\$300 rough" and "\$300 final." Exhibit No. 7. Ms.
3 Williams acknowledge that she received the documents with the amounts on them from Mr.
4 Espinosa and that the amounts were "his fees" for passing the rough and final inspections.

5 44. As explained above in paragraphs 27-29 above, respondent received compensation,
6 estimated to be "thousands of dollars", from Ms. Williams related to her properties through Derek
7 Canada.

8 (b) Machado Properties

9 i. 2326 Myrtle Street

10 45. This single-family home is located in West Oakland. The PBD received a complaint
11 on November 30, 2015, alleging that unpermitted major construction was taking place on the
12 property including open trenches and the structure being lifted. On December 7, 2015 Inspector
13 Gene Martinelli inspected the property and verified the violation. He also issued a stop-work order
14 (SWO) on the property. Exhibit Nos. 8-11 and 25.

15 46. Other inspectors issued additional SWOs and conducted inspections with "Not Pass"
16 results.

17 47. On February 23, 2016, a Job Card was created for 2326 Myrtle bearing entries with
18 the initials A.H.⁶ While there is no corresponding record of this inspection in Accela, respondent
19 had a handwritten note on his schedule for February 23, 2016 – the day of the entry on the Job Card
20 – stating, "2326 Myrtle, RB OK to pour footings." Exhibit Nos. 8, 10, 11 and 25.

21 48. Four days later, on February 27, 2016, Mr. Machado made three cash withdrawals
22 totaling \$1,700 and paid the cash to Mr. Espinosa. On March 2, 2016 a member of the PBD made a
23 note in Accela that the Myrtle property "needs 2x fees, FC & valuation adjusted for Stop Work
24 orders & exceeding scope of work. Needs revised plans that address all work."
25

26 ⁶ During the relevant times of the listed inspections, Anthony Harbaugh was the only person in PBD with the initials AH.

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1 49. On March 3, 2016, a stop-work condition was placed on the Myrtle property
2 building permit and the permit was revoked.

3 50. Five days later, on March 8, 2016, Accela shows the following sequencing of events:
4 at 9:19 am, respondent schedules himself in place of Inspector Bernal to conduct the upcoming
5 field check⁷ set for March 10; six minutes later, respondent cancels the field check at 9:25 am; eight
6 minutes later, scheduler Sylvia Ford creates a new field check entry at 9:33 am; one minute later,
7 Ms. Ford schedules respondent to a field check at 2326 Myrtle at 9:34 am for the same day (March
8 8) rather than the original inspection date of March 10; later that afternoon, at 2:02 pm, respondent
9 enters a "Pass" in Accela for the field check, commenting, "OK to issue a permit, plans reflect
10 scope of work being done on job site. Will need to comply with title 24. Electrical, plumbing and
11 mechanical permits needed." Exhibit Nos. 8, 10 and 25.

12 51. On March 29, 2016, respondent scheduled himself to perform a frame/rough
13 inspection at the property for that same day. He entered a "Pass" on Accela, commenting: "Wall
14 frame and shear nail ok. Roof frame and plywood nail ok." The job card has no corresponding
15 entry for an inspection that day. Respondent's pre-arranged schedule for the day does not mention
16 2326 Myrtle. *Ibid.*

17 52. On April 11, 2016, Mr. Machado withdrew \$1000 in cash from one of his bank
18 accounts and paid Mr. Espinosa. Two days later, on April 13, 2016, the job card for Myrtle had an
19 entry that A.H. inspected the property. Accela had no record of respondent conducting the
20 inspection. Exhibit Nos. 8, 10, 11 and 25.

21 53. On April 15, 2016, respondent noted in Accela that he conducted another inspection
22 of the Myrtle property for electrical and plumbing. Respondent noted in Accela, "4/15/2016,
23 "Rough OK." Exhibit Nos. 8, 10 and 25.

24 54. There are no corresponding entries on the job card for this property. There are
25 _____

26 ⁷ Field checks occur to ensure that the work happening at the site corresponds with the work submitted in the Owner's application. If the work on site is different than the application, then inspectors may issue NOVs or Stop Work Orders. Increased fees can also be assessed.

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1 entries on the job card from May 3, 2016, with the initials A.H. Neither Accela, comment logs or
2 respondent's notes contain any record of these inspections being performed. On June 7, 2016, the
3 job card from the Myrtle property also reflects that respondent conducted an inspection on that date.

4 55. Respondent admitted to the petitioner's witness that he performed some inspections
5 at the 2326 Myrtle property but claimed some of the initials looked like someone else had written
6 them.

7 ii. 6220 Valley View

8 56. On November 12, 2015, Mr. Machado applied for, and was issued, a building permit
9 for rot repair at 6220 Valley View Road. On December 9, 2015, the City received a complaint from
10 an unknown person regarding 6220 Valley View: "WORKING OUTSIDE OF SCOPE OF
11 PERMIT RB1504860 ADDING ON TO HOME." On January 20, 2016, Inspector Benjamin Lai
12 conducted an inspection and found that the work being done was outside the scope of the permit
13 and opened an enforcement case against him. Exhibit Nos. 19-22 and 25.

14 57. A Notice of Violation ("NOV") was sent out on February 8, 2016. It is addressed to
15 Machado and his partner Liu. The NOV stated that a follow-up inspection was to be conducted on
16 March 10.

17 58. On February 24, 2016, Inspector Lai entered the following into Accela: "Met with
18 property owner in office with revised plans to completely remodel house and convert basement into
19 habitable space. Informed to submit for permits to increase valuation and scope of work. Repair of
20 shared garage with neighbor will be separate from current permit application. Monitor case."

21 59. On February 29, 2016, respondent scheduled himself for a final inspection. Later
22 that day, he performed a final inspection on the Valley View property according to Accela.
23 Respondent gave a "Pass" result, and the permit was closed out.

24 60. Mr. Machado applied for a new building permit for 6220 Valley View. In an
25 interview with the PEC, Inspector Lai said that the owners of the Valley View property appeared to
26 be trying to 'low-ball' the value of the project to a significant degree but that he revised their low-

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1 ball valuation.

2 61. On May 13, 2016, respondent performed a field check on the Valley View property.
3 In Accela he entered that the permit was "OK to issue," and that the job valuation should be
4 lowered to \$125,000. Despite respondent's note, the value of the job remained \$271,000 on Accela
5 until it was lowered to \$ \$207,800 on July 6, 2016, per Inspections Manager Tim Low. Respondent
6 had scheduled that field check himself that morning.

7 62. Respondent's cell phone and text records show communications between respondent
8 and Mr. Espinosa during all of the above referenced, relevant transactions. Exhibit No. 20.

9 **(c) Gimme Shelter – 4163 Rifle Lane Property**

10 63. On November 14, 2013, the PBD received a complaint alleging that the Owners at
11 4163 Rifle Lane were building an unpermitted unit in the backyard. On that same day, Mr.
12 Espinosa conducted an inspection and confirmed the allegations. Thereafter, the case stagnated for
13 two years. Exhibit Nos. 14-18 and 25.

14 64. Eventually, the Owners decided to move out of and sell the property. They hired
15 Gimme Shelter, which was a real estate company owned by Bill Charman, and worked with realtor
16 Megan Micco.

17 65. Mr. Espinosa visited the property on February 2, 2016 and spoke with the potential
18 buyers. He warned of a significant fine being levied against the property as well as major
19 inspections that may require uncovering the walls of the structure. Mr. Espinosa eventually told Mr.
20 Charman that the permit issue could be resolved.

21 66. On that same day, respondent visited the property and performed an inspection.
22 Exhibit Nos. 15, 16, and 25, para. 83. Respondent acknowledged that these exhibits contain his
23 handwriting. Respondent gave Ms. Micco a printout with his handwritten notes about repairs
24 needed for the property to pass. Exhibit No. 18. Respondent admitted that the notes are his
25 handwriting. No record exists in Accela of either Mr. Espinosa or respondent's visit to the property
26 nor of respondent's inspection. Failure to log an inspection of a property is a violation of PBD

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1 policy. Respondent, however, did make a handwritten record of this inspection on his schedule for
2 the day. Exhibit No. 16.

3 67. On February 9, 2016, Mr. Charman applied for building, electrical and plumbing
4 permits to “legalize [the] unapproved addition at the back of the house of 4163 Rifle Lane.” On
5 that same day Mr. Espinosa asked Mr. Charman to meet him at a bench outside of City Hall. Mr.
6 Espinosa told Mr. Charman that in order to complete a re-inspection and legally complete the
7 unpermitted building, he needed to pay Mr. Espinosa \$1,500. Mr. Charman paid Mr. Espinosa
8 directly. Exhibit No. 26. Mr. Espinosa deposited the payment in his personal bank account on that
9 same day. Exhibit No. 25.

10 68. Two days later, on or about February 11, 2016 respondent logged into Accela and
11 reported that he conducted frame/rough inspections pursuant to each permit on the Rifle Lane
12 property and gave a “Pass” result to each. His note stated, “rough ok.” None of respondent’s daily
13 log sheets that were scheduled per PBD policy included the inspections he conducted at the Rifle
14 Lane address.

15 69. Five days after that, on February 16, 2016, respondent, without permission,
16 reassigned inspections of the Rifle Lane property from Supervisor David Miles to himself.
17 Respondent performed the final inspections and gave each a “Pass” result.

18 2. Miscellaneous

19 70. Between 2015 and 2018, all employees designated in the City’s Conflict of Interest
20 Code were required to file a Form 700 statements of economic interests and disclose all required
21 information provided in the California Political Reform Act and the City Conflict Interest Code.
22 On April 5, 2016, and on March 16, 2017, the Respondent filed his respective Form 700s but failed
23 to report the money he received from Ms. Williams, Mr. Espinosa or any other property owner for
24 the inspections. On the relevant Form 700s, respondent marked that he had “no reportable interests”
25 in real properties, income, loans, business positions, or gifts outside of his official City
26 employment. Exhibit Nos. 23 and 24.

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1 71. Petitioner asked two follow up questions on rebuttal: (1) did respondent perform the
2 February 10, 2016 and February 16, 2016 inspections at the Rifle Lane property; and (2) did
3 respondent tell PEC Investigator Russell that he (respondent) spoke directly with Owner Elizabeth
4 Williams while he was at work? Respondent replied that the only date he recalled being at the Rifle
5 Lane property was on February 2, 2016. Regarding communications with Ms. Williams,
6 respondent could not recall speaking with Ms. Williams about anything other than older
7 outstanding code cases for her properties.

8 **3. Respondent's Case**

9 72. Respondent did not submit any documents as evidence. He was sworn in by the
10 hearing officer before offering testimony on his own behalf. He testified under penalty of perjury.

11 73. Respondent testified that he never received money from Mr. Espinosa. Respondent
12 invited scrutiny of his banking records and stated that the FBI had already reviewed them and found
13 nothing troubling. Respondent testified that, to the extent that any of his actions ended up assisting
14 Mr. Espinosa in his schemes, they were inadvertent and unknown to him. Respondent stated that he
15 left his Accela login credentials sitting on his desk, accessible to anyone within PBD. He believes
16 he has heard that other Inspectors complained about Mr. Espinosa stealing and using their
17 credentials to create and update Accela inspection entries. Additionally, respondent said it was
18 common practice for Inspectors to call each other up and ask for a "second set of eyes" on an
19 inspection, as an aid to the assigned Inspector. He has done this a few times, and believes this is
20 what happened at the Rifle Lane property, which could account for the mismatch in information
21 between the Job Card and Accela entries for that property. Further, respondent testified that some of
22 the handwritten notes on Exhibit Nos. 15, 16 and 18 do not match his handwriting. He had no
23 explanation for how or why someone would write notes purporting to be from respondent. He
24 stated that he may have notified a supervisor about one of the instances where he believed his
25 writing was forged.

26 74. Respondent knew that Mr. Espinosa, like himself, was recovering from substance

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1 abuse. Respondent thought they were recovery friends. Respondent testified that, at work, he
2 would rely on Mr. Espinosa when he needed to talk to someone else in recovery and that any calls
3 between Mr. Espinosa and respondent were related to recovery.

4 75. Respondent asked two follow up questions, through the hearing officer, on rebuttal:
5 (1) As Mr. Russell testified earlier about a Permit Tech leaving their station unattended so that
6 respondent could have created scheduling records for himself under the Permit Tech's name, is it
7 possible that *anyone* could enter records in Accela by using another person's credentials; and (2)
8 could Mr. Espinosa have physically used someone else's computer or credentials to enter Accela
9 information? Mr. Russell responded to both questions that while it was certainly *possible* for these
10 to have occurred, it was *unlikely* here given the weight of the evidence showing a pattern of Accela
11 entry manipulation in respondent's name, the phone calls linking Mr. Espinosa and respondent at or
12 around the inspection times, and the testamentary and documentary evidence linking respondent to
13 Mr. Espinosa's schemes.

14 **B. CONCLUSIONS OF LAW**

15 76. The authority to bring this action derives from the city of Oakland's Charter,
16 including sections 603(b) and (f). City of Oakland Municipal Code (OMC) Chapter 2.25 contains
17 the city's Government Ethics Act (GEA). The PEC shall not commence an administrative action
18 alleging a violation of the GEA more than four years after the date of the alleged violation.⁸ If the
19 PEC finds a violation of the GEA, it may:

- 20 (a) find mitigating circumstances and take no further action;
21 (b) issue a public statement or reprimand; or
22 (c) impose an administrative penalty of up to five thousand dollars for each violation or
23 three times the amount that was failed to be reported or was illegally received.⁹

24 77. Reasonable inferences may be drawn from the findings of fact.
25

26 ⁸ OMC §2.25.080(C)(6).

⁹ OMC §2.25.080(C)(3).

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1 78. The GEA defines “Public Servant” as, “any full-time or part-time employee of the
2 City.”¹⁰

3 79. The GEA contains a number of rules based on ethics, transparency, fairness and
4 process which all city employees, among others, are required to follow. At issue in this hearing are
5 the Conflicts of Interest provisions, Bribery and Gift provisions and the laws governing the misuse
6 of city positions, assets and resources.¹¹

7 80. The PEC has adopted Enforcement Penalty Guidelines (Guidelines) that govern this
8 proceeding. These Guidelines provide for consideration of all relevant factors in mitigation and
9 aggravation. The factors to be considered include: (1) the seriousness of the violation; (2) the
10 presence or absence of any intent to conceal, deceive or mislead; (3) whether the violation was
11 deliberate, negligent or inadvertent; (4) whether the violation was isolated or part of a pattern, and
12 whether there is a prior record of violations; (5) whether amendments were voluntarily filed to
13 provide full disclosure upon learning of the reporting violation; and (6) the degree of cooperation
14 with the PEC’s investigation, and the demonstrated willingness to remedy any violation.

15 81. The PEC has broad discretion in evaluating a violation and determining the
16 appropriate penalty based on the totality of circumstances. The list of aggravating and mitigating
17 factors in the Guidelines is not an exhaustive list, but rather a sampling of factors that could be
18 considered.¹² The Guidelines contain two separate administrative penalty schemes: Streamline and
19 Mainline.¹³ The Streamline Penalties are reserved for those cases that settle.¹⁴ The Mainline
20 Penalties are reserved for cases involving more serious violations and violations that do not qualify
21 for the Streamline penalties.¹⁵ The Streamline Penalties do not apply here.

22 82. The Guidelines’ Mainstream Penalties provide a base level per violation sum and a
23 statutory limit per violation sum for each violation as follows:

24 ¹⁰ OMC §2.25.030(D)(3).

25 ¹¹ OMC Chapter 2.25.

26 ¹² Guidelines, pg. 2.

¹³ *Id.* at pp. 3-4

¹⁴ *Ibid.*

¹⁵ *Id.* at pg. 4.

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- 1 • Bribery: Base - \$5,000 or 3x illegal gain; Limit - \$5,000 or 3x illegal gain,
2 whichever greater;
- 3 • Misuse of city position: Base - \$5,000; Limit - \$5,000 or 3x illegal gain, whichever
4 greater;
- 5 • Conflicts: Base - \$3,000; Limit - \$5,000 or 3x illegal gain, whichever greater;
- 6 • Use of official position/governmental interest: Base - \$5,000; Limit - \$5,000 or 3x
7 illegal gain, whichever greater;
- 8 • Form 700 non-filer/non-report: Base - \$1,000; Limit - \$5,000 or 3x reportable sum,
9 whichever greater;
- 10 • Misuse of city resources: Base - \$2,000; Limit - \$5,000 or 3x illegal gain, whichever
11 greater;
- 12 • Soliciting a gift: Base - \$1,000 plus unlawful amount; Limit - \$5,000 or 3x unlawful
13 amount, whichever greater;
- 14 • Gift reporting: Base - \$1,000 plus unlawful amount; Limit - \$5,000 or 3x unlawful
15 amount, whichever greater.¹⁶

16 83. **Count One: Soliciting and Receiving Bribes in Exchange for the Performance**
17 **of an Official Act.**

18 (a) A City employee may not solicit or accept anything of value in exchange for the
19 performance of any official act.¹⁷

20 (b) Findings: Between January 1, 2015 through December 31, 2016, respondent
21 demanded and/or received \$300 per inspection plus an unidentified amount of cash in two
22 envelopes delivered to him by Mr. Canada on Mr. Williams' behalf in exchange for giving Ms.
23 Williams passing inspections for her multiple properties on which Mr. Espinosa was performing
24 non-city work. Exhibit Nos. 1-7, 12, 13, 25-28.

25
26 ¹⁶ Guidelines, pp. 4-5.

¹⁷ O.M.C. §2.25.070.

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1 (c) Mitigation: Respondent cooperated with the PEC's Investigator and participated in
2 two separate interviews. Prior to this investigation, respondent has no prior record of GEA
3 violations. Respondent further testified that he has no criminal record.

4 (d) Aggravation: Respondent continues to deny receiving any money whatsoever in
5 exchange for issuing passing inspections. Respondent's actions show a pattern of unauthorized
6 Accela entries around the same time as he was in phone or text contact with Mr. Espinosa and
7 conducting inspections on one of the Owners' properties. The violations with which respondent is
8 charged are serious and involve life, health and safety concerns. Direct evidence links respondent
9 to this scheme through text messages between Mr. Espinosa and Ms. Williams.

10 (e) Based on the foregoing facts and conclusions, respondent is found to have violated
11 Count One and a fine of \$5,000.00 is recommended.

12 84. **Count Two: Misusing City position to induce/coerce others to provide economic**
13 **gain.**

14 (a) A City employee may not use his or her position, or the power or authority of his or
15 her position, in any manner intended to induce or coerce any person to provide any private
16 advantage, benefit, or economic gain to the City employee or any other person.¹⁸

17 (b) Findings: Between January 1, 2015, through December 31, 2016, respondent
18 refused to enter into Accela a record of a final inspection at the Mead Avenue property owned by
19 Ms. Williams, for the purpose of inducing or coercing Ms. Williams into providing respondent with
20 a payment for the inspection. Exhibit Nos. 1-7, 25-28.

21 (c) Mitigation: Respondent cooperated with the PEC's Investigator and participated in
22 two separate interviews. Prior to this investigation, respondent has no prior record of GEA
23 violations. Respondent further testified that he has no criminal record.

24
25 (d) Aggravation: Respondent continues to deny receiving any money whatsoever in
26

¹⁸ O.M.C. §2.25.060 (A)(2).

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1 exchange for issuing passing inspections. Respondent's actions show a pattern of unauthorized
2 Accela entries around the same time as he was in phone or text contact with Mr. Espinosa and
3 conducting inspections on one of the Owners' properties. The violations with which respondent is
4 charged are serious and involve life, health and safety concerns. Direct evidence links respondent
5 to this scheme through text messages between Mr. Espinosa and Ms. Williams.

6 (e) Based on the foregoing facts and conclusions, respondent is found to have violated
7 Count Two and a fine of \$5,000.00 is recommended.

8 **85. Count Three: Conflict of Interest Violation: Make or Participate in making a**
9 **Governmental Decision Involving a Source of Income – 867-859 Mead Avenue.**

10 (a) A city employee may not make, participate in making, or seek to influence decision
11 of the City in which the City employee has a disqualifying financial interest.¹⁹ A city employee has
12 a disqualifying financial interest in a governmental decision if the decision will have a reasonably
13 foreseeable material financial effect on any of their qualifying financial interests.²⁰ A city
14 employee makes a governmental decision if they authorize, direct, obligate, or commit their agency
15 to any course of action.²¹ A city employee attempts to use their official position to influence a
16 decision when they contact or appear before any official in their agency for the purpose of affecting
17 the decision.²² A city employee has a disqualifying financial interest in any individual or business
18 entity from whom they have been provided or promised income aggregating \$500 or more within
19 12-months prior to the time when the relevant government decision is made.²³ The financial effect
20 of a decision on a disqualifying financial interest is presumed to be reasonably foreseeable if the
21 disqualifying financial interest is a named party in, or the subject of, the decision before the city
22 employee their agency.²⁴ For income received by the official, the reasonably foreseeable financial
23 effect of the decision on the City employee's disqualifying financial interest is material if the source

24 ¹⁹ O.M.C. §2.25.040 (A); Cal. Gov. Code §87100.

25 ²⁰ FPPC Regulation 18700 (a).

26 ²¹ FPPC Regulation 18704(a).

²² FPPC Regulation 18704 (c)(1).

²³ Cal. Gov. Code §87103(c).

²⁴ FPPC Regulation 18701.

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1 of the income is a claimant, applicant, respondent, contracting party, or is otherwise identified as
2 the subject of the proceeding.²⁵

3 (b) Findings: Between January 2015 and December 2016, respondent issued Elizabeth
4 Williams a "Pass" result on an electrical, plumbing and frame inspection at her 867-859 Mead
5 Avenue property in Oakland, in exchange for \$300 per inspection and an unidentified amount of
6 cash in two envelopes delivered to him by Mr. Canada on Mr. Williams' behalf. Exhibit Nos. 1-7,
7 25-28.

8 (c) Mitigation: Respondent cooperated with the PEC's Investigator and participated in
9 two separate interviews. Prior to this investigation, respondent has no prior record of GEA
10 violations. Respondent testified that he has no prior criminal record.

11 (d) Aggravation: Respondent continues to deny receiving any money whatsoever in
12 exchange for issuing passing inspections. Respondent's actions show a pattern of unauthorized
13 Accela entries around the same time as he was in phone or text contact with Mr. Espinosa and
14 conducting inspections on one of the Owners' properties. The violations with which respondent is
15 charged are serious and involve life, health and safety concerns. Direct evidence links respondent
16 to this scheme through text messages between Mr. Espinosa and Ms. Williams.

17 (e) Based on the foregoing facts and conclusions, while respondent is found to have
18 violated Count 3, because the same facts are relied upon in Count 1, no fine is imposed over and
19 above that already assessed in Count 1.

20 86. **Count Four: Conflict of Interest Violation: Make or Participate in making a**
21 **Governmental Decision Involving a Source of Income – 2735 Market Street.**

22 (a) The relevant legal authority is the same as for Count 3, and is incorporated herein.

23 (b) Findings: Between January 2015 and December 2016, respondent issued Elizabeth
24 Williams a "Pass" result on an electrical, plumbing and frame inspection at her 2735 Market Street
25 property in Oakland, in exchange for an unidentified amount of cash in two envelopes delivered to
26 _____

²⁵ FPPC Regulation 18702.3 (a)(1).

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1 him by Mr. Canada on Ms. Williams' behalf. Exhibit Nos. 12, 13, 25-28.

2 (c) Mitigation: Respondent cooperated with the PEC's Investigator and participated in
3 two separate interviews. Prior to this investigation, respondent has no prior record of GEA
4 violations. Respondent further testified that he has no criminal record.

5 (d) Aggravation: Respondent continues to deny receiving any money whatsoever in
6 exchange for issuing passing inspections. Respondent specifically denies receiving any envelopes
7 of cash. Respondent's actions show a pattern of unauthorized Accela entries around the same time
8 as he was in phone or text contact with Mr. Espinosa and conducting inspections on one of the
9 Owners' properties. The violations with which respondent is charged are serious and involve life,
10 health and safety concerns.

11 (e) Based on the foregoing facts and conclusions, respondent is found to have violated
12 Count Four and a fine of \$3,000.00 is recommended.

13 87. **Count Five: Conflict of Interest Violation: Make or Participate in making a**
14 **Governmental Decision Involving a Source of Income – 877 27th Street.**

15 (a) The relevant legal authority is the same as for Counts 3-4, and is incorporated
16 herein.

17 (b) Findings: Between January 2015 and December 2016, respondent issued Elizabeth
18 Williams a "Pass" result on an electrical, plumbing and frame inspection at her 877 27th Street
19 property in Oakland, in exchange for an unidentified amount of cash in two envelopes delivered to
20 him by Mr. Canada on Ms. Williams' behalf. Exhibit Nos. 6, 7, 25-28.

21 (c) Mitigation: Respondent cooperated with the PEC's Investigator and participated in
22 two separate interviews. Prior to this investigation, respondent has no prior record of GEA
23 violations. Respondent further testified that he has no criminal record.

24 (d) Aggravation: Respondent continues to deny receiving any money whatsoever in
25 exchange for issuing passing inspections. Respondent specifically denies receiving any envelopes
26 of cash. Respondent's actions show a pattern of unauthorized Accela entries around the same time

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1 as he was in phone or text contact with Mr. Espinosa and conducting inspections on the Owners'
2 properties. The violations with which respondent is charged are serious and involve life, health and
3 safety concerns.

4 (e) Based on the foregoing facts and conclusions, respondent is found to have violated
5 Count Five and a fine of \$3,000.00 is recommended.

6 88. **Count Six: Conflict of Interest Violation: Make or Participate in making a**
7 **Governmental Decision Involving a Source of Income – 4163 Rifle Lane.**

8 (a) The relevant legal authority is the same as for Counts 3-5, and is incorporated
9 herein.

10 (b) Findings: Between January 2015 and December 2016, respondent issued a "Pass"
11 result on the frame and final inspection at his "Gimme Shelter" 4163 Rifle Lane property. Witness
12 testimony places respondent at this property. Respondent acknowledged that he has been at the
13 property and that he made the handwritten notes on multiple inspection-related documents for this
14 property, and respondent conducted the "Pass" inspections. Mr. Espinosa received a \$1,500 check
15 related to inspections on this property and deposited it into his bank account. The weight of the
16 evidence supports the conclusion that respondent likely received financial benefit for the
17 inspections he conducted at this property. Exhibit Nos. 14-18, 25-28.

18 (c) Mitigation: Respondent cooperated with the PEC's Investigator and participated in
19 two separate interviews. Prior to this investigation, respondent has no prior record of GEA
20 violations. Respondent further testified that he has no criminal record.

21 (d) Aggravation: Respondent continues to deny receiving any money whatsoever in
22 exchange for issuing passing inspections. Respondent was unable to explain his repeated visits to
23 the Rifle Lane property as evidence by his initialing paperwork and making personal notes and
24 comments on paperwork he gave to the Owners. In addition, respondent was unable to account for
25 the discrepancies in documented passed inspections on the Job Card and personal notes versus the
26 city's lack of records for these passing inspections in Accela. Respondent's actions continue to

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1 follow a pattern of unauthorized Accela entries scheduling himself to conduct inspections on the
2 Owners' properties. The violations with which respondent is charged are serious and involve life,
3 health and safety concerns.

4 (e) Based on the foregoing facts and conclusions, respondent is found to have violated
5 Count Six and a fine of \$3,000.00 is recommended.

6 89. **Count Seven: Conflict of Interest Violation: Make or Participate in making a**
7 **Governmental Decision Involving a Source of Income – 2326 Myrtle Street.**

8 (a) The relevant legal authority is the same as for Counts 3-6, and is incorporated
9 herein.

10 (b) Findings: Between January 2015 and December 2016, respondent issued a "Pass"
11 result on a building inspection for remodel construction (including electrical and frame inspection)
12 at 2326 Myrtle property in Oakland. Though the documentary and testimonial evidence showed the
13 same patterns related to this property as with other properties where respondent violated the law,
14 the weight of the evidence was insufficient to establish a direct link showing that respondent
15 received payments for providing this "Pass" inspection on this property. Exhibit Nos. 8-11, 25-28.

16 (c) Based on the foregoing facts and conclusions, respondent is found not to have
17 violated Count Seven.

18 90. **Count Eight: Conflict of Interest Violation: Make or Participate in making a**
19 **Governmental Decision Involving a Source of Income – 6220 Valley View Road.**

20 (a) The relevant legal authority is the same as for Counts 3-7, and is incorporated
21 herein.

22 (b) Findings: Between January 2015 and December 2016, respondent used his official
23 position to issue a "Pass" result 6220 Valley View. Though the documentary and testimonial
24 evidence showed the same patterns related to this property as with other properties where
25 respondent violated the law, the weight of the evidence was insufficient to establish a direct link
26 showing that respondent received payments for providing this "Pass" inspection on this property.

Item 6b - Hearing Officer's Recommendation

1 Exhibit Nos. 19-22, 25-28.

2 (c) Based on the foregoing facts and conclusions, respondent is found not to have
3 violated Count Eight.

4 91. **Count Nine: Making or Seeking to Use An Official Position to Make**
5 **Governmental Decisions in Which The Employee Has a Disqualifying Financial Interest.**

6 (a) A City employee may not use his or her position, or the power or authority of his or
7 her position, in any manner intended to induce or coerce any person to provide any private
8 advantage, benefit, or economic gain to the City employee or any other person.²⁶

9 (b) Findings: Between January 1, 2015 through December 31, 2016, respondent used
10 his official position to issue Ms. Williams passing building permits for multiple properties in
11 exchange for \$300 per inspection and an unidentified amount of cash in two envelopes delivered to
12 him by Mr. Canada on Ms. Williams' behalf. Exhibit Nos. 1-7, 12, 13, 25-28.

13 (c) Mitigation: Respondent cooperated with the PEC's Investigator and participated in
14 two separate interviews. Prior to this investigation, respondent has no prior record of GEA
15 violations. Respondent further testified that he has no criminal record

16 (d) Aggravation: Respondent continues to deny receiving any money whatsoever in
17 exchange for issuing passing inspections. Respondent specifically denies receiving envelopes of
18 cash from Ms. Williams' property manager Derek Canada. Respondent's denials persist in the face
19 of direct evidence linking him to this passing inspection scheme for cash through the text messages
20 of Mr. Espinosa and Ms. Williams. Respondent's actions further show a pattern of unauthorized
21 Accela entries around the same time as he was in phone or text contact with Mr. Espinosa and
22 conducting inspections on Ms. Williams' properties. The violations with which respondent is
23 charged are serious and involve life, health and safety concerns.

24 (e) Based on the foregoing facts and conclusions, respondent is found to have violated
25 Count Nine but fines are not recommended because this violation is based upon the same set of
26

²⁶ O.M.C. §2.25.060 (A)(2).

Item 6b - Hearing Officer's Recommendation

1 facts as support Counts 1-5, and in which fines have already been recommended for Counts 1, 2, 4,
2 and 5.

3 92. **Count Ten: Economic Interest Disclosure: Failing to Report a Source of**
4 **Income.**

5 (a) Every city employee designated in the city's Conflict of Interest Code (CIC) is
6 required to file statements of economic interests and disclose all required information pursuant to
7 the California Political Reform Act and the CIC.²⁷ The CIC incorporates FPPC Regulation 18730
8 and requires every Specialty Combination Inspector in the PBD to report investments and business
9 positions in business entities, sources of income, and interests in real property.²⁸ The CIC requires
10 designated employees file their statement of economic interests with the City Clerk's Office.²⁹ A
11 Specialty Combination Inspector ("Building Inspector") is required to report by April 1st all
12 reportable investments and business positions in business entities, sources of income and interests
13 in real property, held or received during the previous calendar year.³⁰ They are also required to
14 report within 30 days after leaving office all reportable investments and business positions in
15 business entities, sources of income and interests in real property, received or held during the period
16 between the closing date of the last statement filed and the date his or her employment with the City
17 is terminated.³¹ Reportable income is any payment received by the Specialty Combination
18 Inspector and includes loans other than those received from a commercial lending institution.³² The
19 Specialty Combination Inspector is required to report the name and address of every source of
20 income aggregating \$500 or more in value during the period that discovered by the statement of
21 economic interests, the amount of income received, and a description of the consideration for which
22 the income was received.³³ A business position must be reported when the filer is a director,

23 _____
24 ²⁷ O.M.C. §2.25.040(B).

25 ²⁸ O.M.C. §3.16.010.

26 ²⁹ O.M.C. §3.161.020.

³⁰ FPPC Regulation 18730, subs. (b)(6)(C).

³¹ FPPC Regulation 18704 (b)(5)(D).

³² Cal. Gov. Code §82030.

³³ Cal. Gov. Code §18700(a).

Item 6b - Hearing Officer's Recommendation

1 officer, partner, trustee, or employee of, or hold any position of management in, a business entity
2 that has an interest in real property in the jurisdiction, or does business or plan to do business in the
3 jurisdiction or has done business in the jurisdiction at any time during the two years prior to the
4 date the statement is required to be filed.³⁴

5 (b) Findings: Credible testamentary evidence shows that respondent received
6 compensations estimated to be thousands of dollars in cash payments for performing passing
7 inspections on properties owned by Ms. Williams. These payments constitute income for work
8 performed. All Building Permit Inspectors are required to report income that is separate and apart
9 from their city salary on their Form 700 statements of economic interests. Respondent failed to
10 report any of this income on his Form 700 statements of economic interest. Exhibit Nos. 1-7, 12,
11 13, 23-28.

12 (c) Mitigation: Respondent cooperated with the PEC's Investigator and participated in
13 two separate interviews. Prior to this investigation, respondent has no prior record of GEA
14 violations. Respondent further testified that he has no criminal record

15 (d) Aggravation: Respondent continues to deny receiving any money whatsoever in
16 exchange for issuing passing inspections. Respondent's actions show a pattern of unauthorized
17 Accela entries around the same time as he was in phone or text contact with Mr. Espinosa and
18 conducting inspections on one of the Owners' properties. These cash payments were never
19 reported on respondent's Form 700s for 2015 and 2016, and remain unreported to this day.

20 (e) Based on the foregoing facts and conclusions, respondent is found to have violated
21 Count Ten and a fine of \$1,000.00 is recommended.

22 93. **Count Eleven: Misuse of City Resources for personal financial gain**

23 (a) A City employee may not use public resources for personal purposes.³⁵ Personal
24 purposes means activities for personal enjoyment, private gain or advantage, or an outside endeavor
25

26 ³⁴ Cal. Gov. Code §87209.

³⁵ O.M.C. §2.25.060 (A)(1).

Item 6b - Hearing Officer's Recommendation

1 not related to City business.³⁶ Public resources means any property or asset owned by the City,
2 including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones,
3 computers, vehicles, travel, and City compensated time.³⁷ Use means a use of public resources
4 which is substantial enough to result in a gain or advantage to the user or a loss to the City for
5 which a monetary value may be estimated.³⁸

6 (b) Findings: Between January 1, 2015 through December 31, 2016 during work hours,
7 respondent used a city-owned vehicle for personal or non-government purposes when he accepted
8 an envelope of cash from Mr. Canada, on behalf of Ms. Williams, while sitting in a City-owned
9 vehicle. Exhibit Nos. 1-7, 12, 13, 25-28. (c)Mitigation: Respondent cooperated with the PEC's
10 Investigator and participated in two separate interviews. Prior to this investigation, respondent has
11 no prior record of GEA violations. Respondent testified that he likewise has no criminal record and
12 the federal government has gone through his bank accounts.

13 (d) Aggravation: Respondent continues to deny receiving any money whatsoever in
14 exchange for issuing passing inspections, and specifically denies receiving envelopes full of cash.
15 Respondent's actions show a pattern of unauthorized Accela entries around the same time as he was
16 in phone or text contact with Mr. Espinosa and conducting inspections on one of the Owners'
17 properties. The violations with which respondent is charged are serious and involve life, health and
18 safety concerns.

19 (e) Based on the foregoing facts and conclusions, respondent is found to have violated
20 Count Eleven and a fine of \$2,000.00 is recommended, based solely on the evidence relating to the
21 Elizabeth Williams properties.

22 94. **Count Twelve: Soliciting or Accepting Gifts in excess of the City of Oakland**
23 **Gift Limits**

24 (a) "Public Servants" may not solicit or accept gifts in excess of \$250 in a calendar

25 _____
26 ³⁶ O.M.C. §2.25.060 (A)(i) (a)(i).

³⁷ O.M.C. §2.25.060 (A) (1)(a)(iii).

³⁸ O.M.C. §2.25.060(A)(1)(a)(iv).

Item 6b - Hearing Officer's Recommendation

1 year.³⁹

2 (b) Findings: The evidence shows that respondent performed some inspections in
3 exchange for money. This arrangement is not a gift but income that respondent failed to report.
4 Exhibit Nos. 1-28.

5 (c) Based on the foregoing facts and conclusions, respondent is not found to have
6 violated Count Twelve, though he is found to have violated Count Ten.

7 **95. Count Thirteen: Gift Disclosure Violation: Failing to Report Gifts in excess of**
8 **the City of Oakland Gift Limits**

9 (a) All "Public Servants" within the city of Oakland must report all gifts they receive
10 cumulatively in excess of \$250 in a calendar year on their Statement of Economic Interest, which is
11 known as a Form 700.⁴⁰

12 (b) Findings: The evidence shows that respondent performed some inspections in
13 exchange for money. This arrangement is not a gift but income that respondent failed to report.
14 Exhibit Nos. 1-28.

15 (c) Based on the foregoing facts and conclusions, respondent is not found to have
16 violated Count Thirteen, though he is found to have violated Count Ten.

17 **C. ORDER**

18 96. Based on all of the foregoing, it is recommended that respondent Anthony Harbaugh
19 be ordered to pay a total administrative penalty of **\$22,000** for 9 violations of the City of Oakland
20 Government Ethics Act.

21 Dated: December 2, 2020

22

23

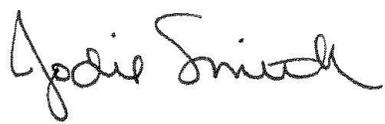
24

25

26

³⁹ OMC §2.25.060(C).

⁴⁰ OMC §2.25.060(C).

By: 
Hearing Officer Jodie Smith

Item 6b - Hearing Officer's Recommendation

APPENDIX A – EXHIBIT LIST

Exhibit No. and Description	Offered by:	Submitted without objection:
1. Record of Text Messages between Thomas Espinosa and Elizabeth Williams regarding the Mead Street property	Petitioner	Yes
2. Accela inspection log for Mead Street property	Petitioner	Yes
3. Accela scheduling log for Mead Street property	Petitioner	Yes
4. Accela inspection log for Mead Street property	Petitioner	Yes
5. Accela scheduling log for 27 th Street property	Petitioner	Yes
6. Accela inspection log for 27 th Street	Petitioner	Yes
7. Handwritten bill by Thomas Espinosa to Elizabeth Williams for passing inspections at her properties	Petitioner	Yes
8. Accela scheduling log for Myrtle Street property	Petitioner	Yes
9. Personal cell phone records of respondent	Petitioner	Yes
10. Accela inspection log for Myrtle Street property	Petitioner	Yes
11. Permit Inspection record (Job Card) for Myrtle Street property	Petitioner	Yes
12. Accela scheduling log for Market Street property	Petitioner	Yes
13. Personal cell phone records of respondent	Petitioner	Yes
14. Accela inspection log for Rifle Lane property	Petitioner	Yes
15. Permit Inspection record (Job Card) for Rifle Lane property	Petitioner	Yes
16. Respondent's inspection schedule with handwritten notes regarding Rifle Lane property	Petitioner	Yes

Item 6b - Hearing Officer's Recommendation

17. Accela scheduling log for Rifle Lane property	Petitioner	Yes
18. Respondent's inspection schedule with handwritten notes regarding Rifle Lane property	Petitioner	Yes
19. Accela scheduling log for Valley View Road property	Petitioner	Yes
20.	Petitioner	Yes
21. NOV for Valley View Road property	Petitioner	Yes
22. Personal cell phone records of respondent	Petitioner	Yes
23. Respondent's 2015 Statement of Economic Interest filing (Form 700)	Petitioner	Yes
24. Respondent's 2016 Statement of Economic Interest filing (Form 700)	Petitioner	Yes
25. Declaration of PEC Investigator Simon Russell with Attachments 1-69	Petitioner	Yes
26. Demonstrative table of cash payments to respondent for passing inspections	Petitioner	Yes
27. Demonstrative table of inspections that were created by or reassigned to respondent	Petitioner	Yes
28. Demonstrative table of respondent's handwritten inspection notes	Petitioner	Yes

Item 8 - Disclose and Engage 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: December 18, 2020
RE: Disclosure and Engagement Report

This memorandum provides a summary of major accomplishments in the Public Ethics Commission's (PEC or Commission) Disclosure and Engagement program activities for the past year. 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 opportunities for dialogue between the Commission and community members.

Program Milestones in 2020

Compliance

Contribution and Voluntary Expenditure Limits Adjustment – On January 14, the US Bureau of Labor Statistics released the 2019 CPI data used for the annual contribution and voluntary expenditure limit adjustment pursuant to the Oakland Campaign Reform Act (OCRA). Staff calculated the annual adjustment and published the new limits as required by OCRA. The adjustment increased the individual contribution limit for candidates that voluntarily accept expenditure limits from \$800 to \$900 per election.

Campaign finance disclosure – As of December 2020, the City of Oakland has 98 registered political committees required to file periodic campaign disclosure statements, 58 candidate and officeholder committees, 32 general purpose committees, 5 primarily-formed ballot measure committees, and 3 primarily-formed candidate committees. Two Oakland elections were conducted in 2020, a special election on March 3 and the general election on November 3, 2020. As a result, there were six scheduled campaign statement deadlines this year. In all, staff processed and reviewed close to 1,000 campaign-related filings during 2020.¹

During facial review staff detected 11 statements with issues requiring amendments and worked with filers to voluntarily come into compliance. Staff assessed \$600 in late fees against six filers. During the

¹ 220 Campaign Statements (Forms 460 and 461), 340 Late Contributions Reports (Form 497), and 409 Late Independent Expenditure Reports (Form 496).

Item 8 - Disclose and Engage Report

pre-election period, staff collaborated with the Fair Political Practices Commission to reach out to non-filers and ended the year with all 2020 committees having submitted the required disclosure statements. After repeated notices and outreach attempts by staff, one candidate was referred for enforcement to the FPPC for failure to file the Short Form 470 used by candidates with under \$2,000 in campaign activity.

Streamlined Signature Verification Process for Electronic Campaign Filings – When the PEC took over filing officer duties in 2017, a paper-based registration system was in place that required candidates and campaign treasurers to visit the PEC offices in-person or pay a notary to complete their paperwork before they could file their reports online. In addition, the online system required committees to manage multiple sets of PINs and complete a complicated series of steps to submit campaign filings. The signature process generated a majority of technical assistance requests in the PEC front office during the peak times for advice and assistance in the weeks of filing deadlines, and the issue became an even more immediate concern when the PEC’s public office closed due to the COVID-19 pandemic as 2020 candidates were registering their committees.

After determining there were no legal or security issues that required maintaining the in-person process, Commission staff eliminated the in-person signature card procedure and instituted a simplified form that includes an agreement to conduct all further transactions electronically and that can be signed and submitted electronically. The streamlined process allows campaign filings to be submitted without any in-person contact, which is particularly important during the COVID-19 pandemic but will continue indefinitely. Staff worked with filing system vendor NetFile to implement a simplified submission process in time for the first major filing deadline in July. In line with efforts to digitize and streamline disclosure reporting, Commission staff also implemented a digital form for candidates accepting voluntary campaign spending limits ([OCRA Form 301](#)).

Political Contributions Solicited by City Officials – Effective July 1, 2019, any Oakland public servant required to file a Statement of Economic Interests (Form 700) who successfully solicits a political contribution of \$5,000 or more from any person or entity that contracts or proposes to contract with the official’s department must disclose the solicitation to the Public Ethics Commission within 30 days. Commission staff developed an online form for reporting solicited contributions ([OCRA Form 303](#)). Two solicited contributions were disclosed by Mayor Schaaf in connection with the November 2020 election. Both contributions were to the Committee for an Affordable East Bay (view committee on [OpenDisclosure](#)) and totaled \$107,500. The purpose listed was to support Derreck Johnson and oppose Rebecca Kaplan for City Council At Large.

Lobbyist disclosure – Since January 2018, all lobbyist forms and reports required by the Lobbyist Registration Act must be filed with the Public Ethics Commission as filing officer for the City of Oakland. Sixty-three lobbyists registered with the City of Oakland as of December 2020 representing a total of 110 clients. Staff processed close to 200 lobbyist reports this year.

Oakland lobbyists reported \$1,314,123 in payments from clients and a total of 678 contacts with City officials during the first three quarters of 2020.² Twenty-nine contributions to candidates solicited by lobbyists were reported. No employment relationships with City officials were reported.

Lobbyist e-filing – In August 2019, Commission staff initiated a partnership with the City of Oakland’s Information Technology Department (ITD) to build an electronic [Lobbyist Registration and Reporting system](#) to increase the efficiency of our lobbyist registration program and vastly improve internal and

² The filing deadline for the fourth quarter is January 30, 2021.

Item 8 - Disclose and Engage Report

public access to the data contained within the reports. The Lobbyist Registration and Reporting app went live in July 2020 on the City's OakApps platform in time for the second quarter lobbyist activity reporting deadline. The system is designed to make compliance with the disclosure requirements of the Oakland Lobbyist Registration Act simpler and more convenient for the regulated community and enables lobbyists to submit and manage all aspects of their registration and reporting requirements online. Registration and client information is stored to reduce time spent by lobbyists on data entry. Lobbyists may view their filing history and print or download filings. Dropdown lists are provided to improve accuracy and standardize the data for greater searchability and analysis. Resources for lobbyists, such as links to the Act, the PEC's lobbyist guide, and a searchable FAQ are provided within the app. The administrative system enables Commission staff to easily track compliance with a dashboard feature, automated reports, and notifications to filers.

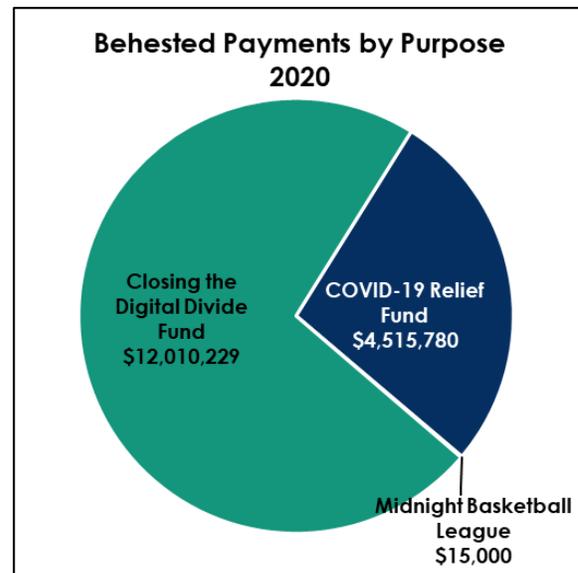
FPPC Form 803 Behested Payments – California law requires Oakland elected officials to file an FPPC Form 803 report any time they fundraise or otherwise solicit payments for a legislative, governmental or charitable purpose that total \$5,000 or more in a calendar year from a single source (one individual or organization) to be given to another individual or organization. The official must submit the FPPC Form 803 report to the campaign filing officer within 30 days. To aid compliance, Commission staff implemented an online Form 803 process so that elected officials could submit their reports digitally.

In 2020, the Commission received 38 filings from the Mayor's Office reporting a total of \$16,541,009 in solicited contributions, \$12,010,229 to the Closing the Digital Divide Fund, \$4,515,780 to Oakland's COVID-19 Relief Fund, and \$15,000 to the Midnight Basketball League.

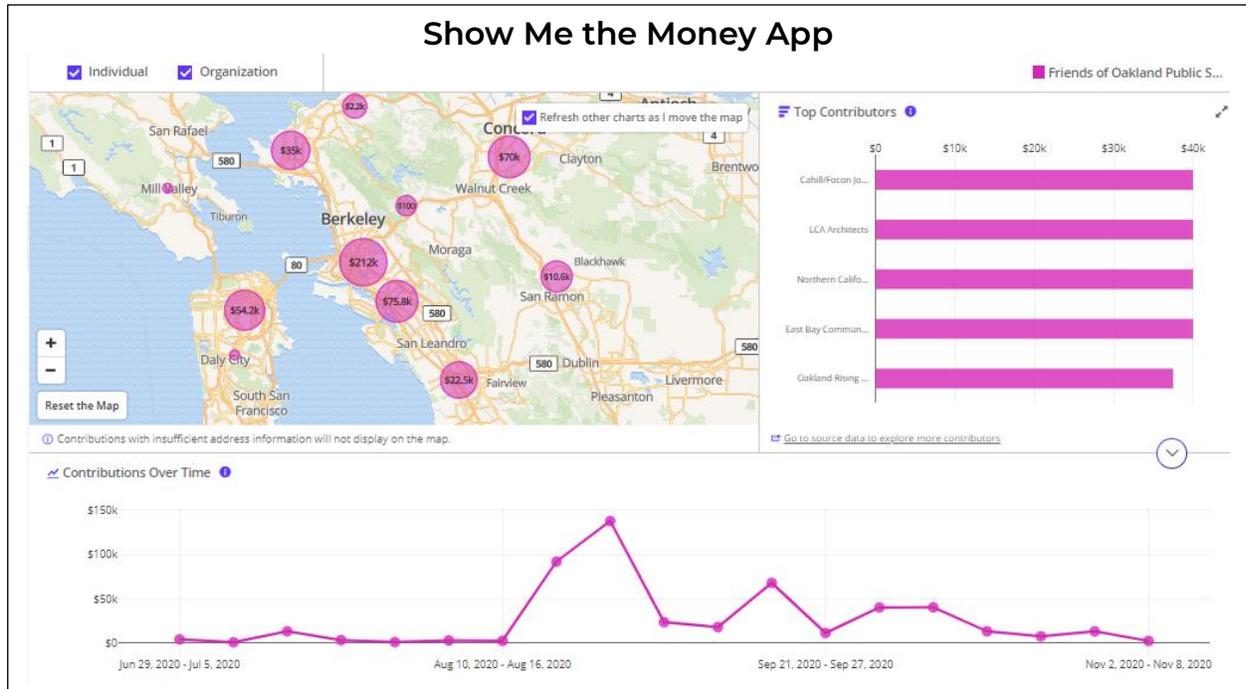
Illuminating Disclosure Data

Lobbyist Disclosure Data – As of 2020, Oakland residents have immediate online access to lobbyist disclosure data for the first time. In December, the Lobbyist Registration and Reporting app added a [public lobbyist directory](#) with a dashboard display and directory enables users to view and download lobbyist registration and activity reports from [OakApps](#).

Show Me the Money App – Over the summer, Tyler Technologies, owners of the Socrata data platform which provides the [OakData](#) portal for the City of Oakland, approached Commission staff to collaborate on the launch of an innovative new tool that maps the geographic source of campaign contributions to candidates and political committees. Users of the "[Show Me the Money](#)" app enter the name of a candidate or committee in a search box to generate a map showing the sources of campaign cash. The application also includes a bar chart of top contributors and a graph of contributions over time.¹ Up to three candidates may be selected at a time for comparison. Like the



Item 8 - Disclose and Engage Report

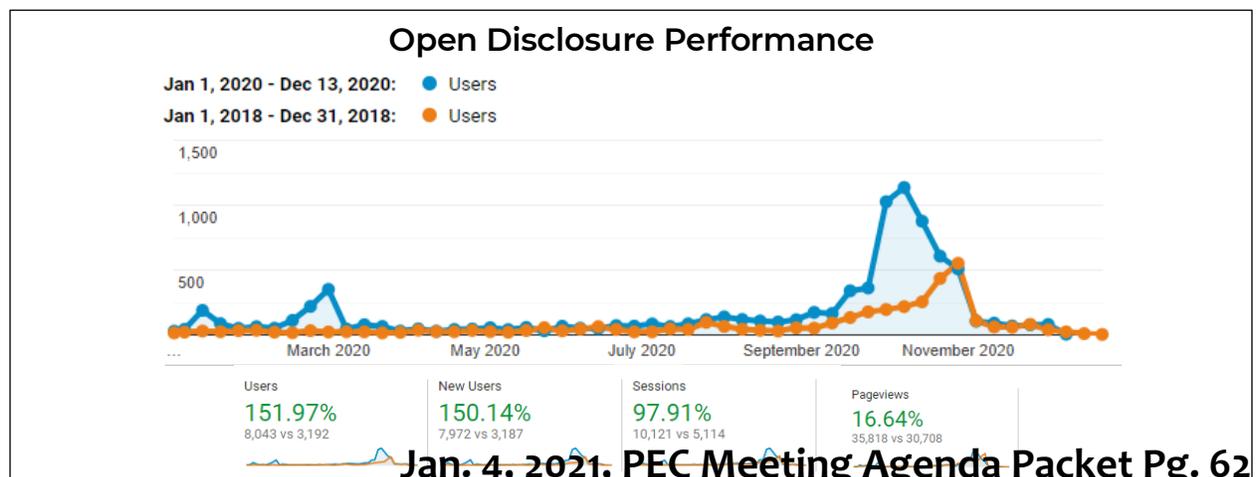


Commission’s other campaign finance projects, the data is updated daily from the City’s campaign finance database.

Working closely with the City’s IT department, Commission staff was able to set up the process to extract data from the City’s campaign finance database, transform the data into the required format, and load it to the app in time to unveil the “[Show Me the Money](#)” tool for the November election. The underlying dataset is also published on OakData, providing the public with a new dataset of campaign contribution data enhanced with geocoded contributor data as well as other election information.

Open Disclosure – Commission staff and Open Oakland volunteers launched the updated 2020 [OpenDisclosure](#) campaign finance app showing the flow of money in Oakland’s March and November elections in an easy to understand, interactive format. New features implemented for the 2020 elections included:

- Donor search across all elections and campaigns.
- Election overview pages with data highlights such as contributions reported, the three most expensive races, candidates with the largest proportion of small contributions, and a breakdown of contributions overall by source.
- Direct links to candidate data in the “[Show Me the Money](#)” app displaying the location of campaign contributors.



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8,043 users visited OpenDisclosure in 2020, generating 10,121 sessions and 38,818 pageviews between January 1 and December 14, 2020. Since launching Open Disclosure in 2014, the site has reached 29,286 users with 133,246 views of Open Disclosure content.

Advice and Engagement

Advice and Technical Assistance – In 2020, Commission staff responded to 427 requests for information, advice or assistance regarding campaign finance, ethics, lobbyist registration or public records issues.

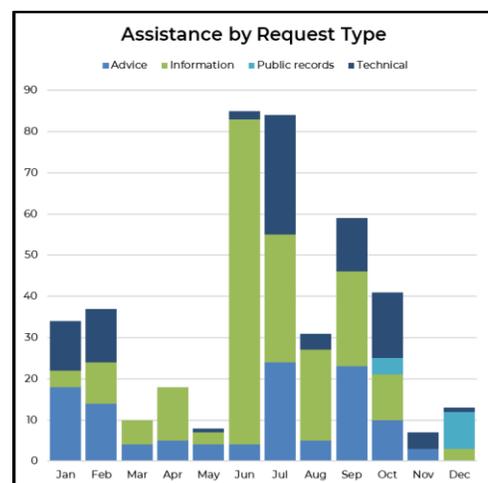
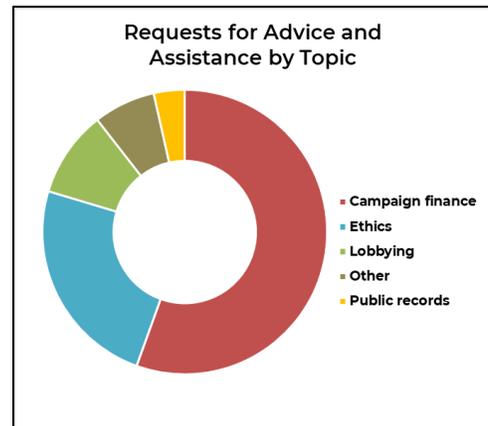
Elected Officials – Elected officials are required to take the PEC’s online Ethics Training for Form 700 Filers. All elected officials have taken the PEC’s online training.

New Employee Orientation – Commission staff continued its work with the Department of Human Resources to ensure that every new City employee receives introductory Government Ethics training. As an ongoing practice, Commission staff presents an overview of both the Government Ethics Act and the Commission’s services at every New Employee Orientation (NEO) provided by the City. These orientations typically occur monthly, and in 2020 staff conducted a total of eight presentations that reached approximately 270 new employees.³

Ethics Training for Form 700 Filers – In 2020, 148 employees completed the PEC’s online Government Ethics Training for Form 700 Filers. To provide an additional option for City employees to complete the ethics training requirement, PEC staff, in collaboration with Department of Human Resources Management (DHRM), held three live Zoom trainings that covered all the content in the PEC’s online ethics training for Form 700 filers. Approximately 60 employees attended the live Zoom trainings. In addition, ethics training videos on the PEC’s YouTube channel received over 1,100 views this year.

Supervisor Academy – Staff conducted ethics presentations at two Supervisor Academies, providing over 40 supervisor-level City employees with an overview of the Government Ethics Act and PEC services. This academy is a relatively new feature added by DHRM in 2017 to provide training to supervisors on City policies and procedures, internal systems, and leadership skills relating to day-to-day supervision. Supervisor Academy sessions provide an opportunity to dive into discussions of ethical issues and scenarios and provide skills-based training to deal with ethical dilemmas such as gift restrictions, lobbying activity, misuse of City resources, and public records requests.

Boards and Commissions – In January, PEC staff held in-person ethics trainings for the City’s board and commission members. Between the two offered sessions, nearly 100 board and commission members received training on provisions of the Government Ethics Act including Form 700 requirements, conflicts of interests, gift rules, misuse of City resources/position, and “revolving door” rules.



³ Due to COVID-19, NEOs were cancelled during the months of March through June.

Item 8 - Disclose and Engage Report

Upon request, Commission staff continued to provide introductory ethics trainings to City board and commission members. This past year, staff provided three presentations to the Oakland Fund for Children and Youth Oversight Committee, Community Development Block Grant Committees (Districts 1-7) and the City's Redistricting Commission, respectively. Staff introduced the City's Government Ethics Act and an overview of the Commission's services.

Candidates and Campaigns – In May, Staff held a joint candidate and treasurer training with the Fair Political Practices Commission (FPPC). Twenty-six attendees were provided a two-hour training on the CA Political Reform Act and the Oakland Campaign Reform Act. Topics covered included campaign forms, committee IDs, campaign bank accounts, recordkeeping, contribution rules, and advertising disclosures.

As part of campaign education efforts, staff issued monthly advisories to ensure that candidates and committees were aware of local rules during the election season. Advisories covered topics including 24-hour contribution and independent expenditure reporting, contribution rules, common filing errors, ballot measure activities, and post-election obligations.

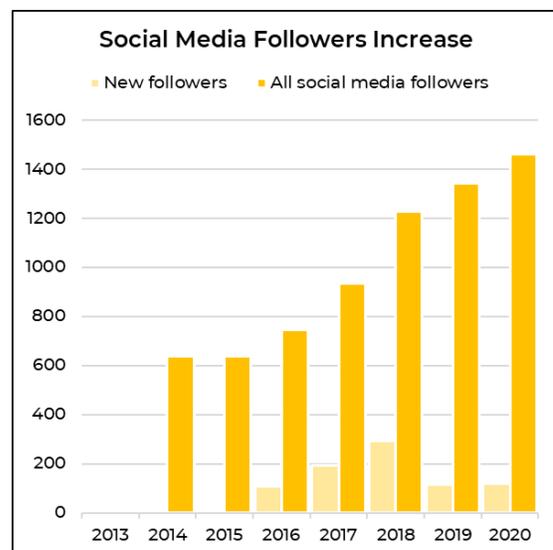
Publications – Commission staff revised two comprehensive guides intended to assist the regulated community in complying with local laws and published a new brochure:

- **Oakland Campaign Reform Act Guide** – Commission staff made substantial revisions to the guide to the Oakland Campaign Reform Act to incorporate new disclosure requirements added to the ordinance in June 2019.
- **Limited Public Financing (LPF) Guide** – Staff updated the guide for the 2020 election, making updates to LPF program forms along with additional edits to ensure that language is consistent with the revised Oakland Campaign Reform Act (OCRA) Guide.
- **Lobbyist Brochure** – Commission staff published a new brochure outlining the rules for lobbying Oakland City officials to increase awareness of the Lobbyist Registration Program among potential lobbyists as well as City staff. The purpose of the brochure is to increase awareness of the City's Lobbyist Registration Program as well as the transparency of lobbyist activities happening in Oakland.

Newsletter – The PEC published and distributed the ninth issue of its newsletter **Public Trust**. The newsletter covered a range of topics including campaign rules, use of city resources, and highlights of the PEC's program areas. The newsletter was distributed electronically to all City staff and Commission followers and shared widely via social media and the Commission's website. Through the Commission's email distribution list alone, 935 individuals received the PEC newsletter.

Online Engagement

Social Media – In 2020, Commission staff continued producing monthly social media content highlighting PEC policy areas, activities, and topics of interest to specific client-groups. Social media posts generated over 57,000 impressions (views of PEC content) and approximately 1,000 user engagements (likes, shares or retweets, clicks on links, and new followers). Our



Item 8 - Disclose and Engage Report

social media followers continue to grow with a net gain of 118 new followers for a total of 1,462 followers at the end of 2020.

Website – Commission staff collaborated with the City’s Digital Services department to gain deeper insight into user activity on our webpages and improve discoverability of key information. Based on the user research, Digital Services implemented a [service menu page](#) to improve the navigability of the City website. Website users can now find core PEC services without prior knowledge that the PEC is the service provider. PEC website content was revised this year to meet the City’s accessibility standards, such as ensuring content can be read by screen readers, simplifying vocabulary, and labeling images with alt text. Staff also updated the online mailing list subscription form so interested persons can select from multiple lists to receive updates relevant to specific client groups and issue areas.

General Outreach

In January, PEC staff accompanied Commissioners Smith and Tuman to a joint community presentation with the City Auditor’s office for the Oakmore Community Group. Commissioners Smith and Tuman shared background information about the PEC and informed attendees about key accomplishments and current work of the Commission. Commissioners and PEC staff answered questions related to public records requests, open meeting requirements, and disclosure and education programs. PEC staff provided attendees with several ethics resources to learn more about the Commission and our services.

Item 9 - Enforcement Report



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: Kellie Johnson, Enforcement Chief
DATE: December 15, 2020
RE: Enforcement Program Update for the January 4, 2021, PEC Meeting

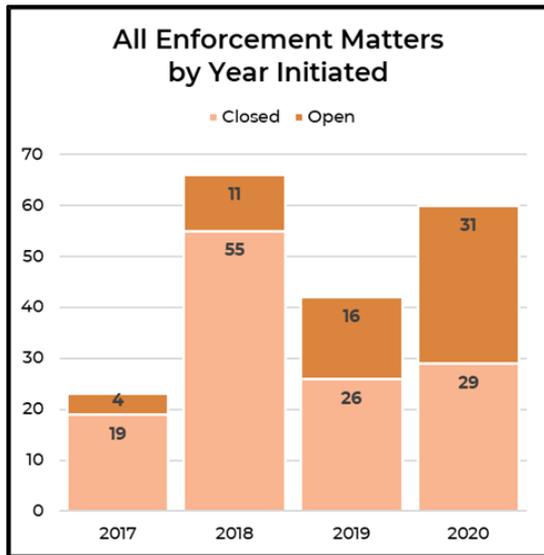
End of the Year Summary for Enforcement Matters

The Enforcement Unit's efforts to ensure fairness, openness, honesty and integrity in Oakland City Government by ensuring compliance with local and state government ethics, campaign finance, transparency, and lobbyist registration laws, are critical to instilling confidence in and accountability for public servants. In furtherance of the Public Ethics Commission's goals and objectives, the Enforcement Unit recommends, and the Commission brings multiple enforcement actions that protect the integrity of our local government, deter violations, advise on policy, practice improvements, and restores accountability.

Any end-of-year report, however, discussing metrics of success inevitably places a certain emphasis on numbers. But a strong ethics enforcement program is about much more than that. It is about the integrity of government, providing transparency, ensuring compliance and deterring misconduct from happening in the first place. It is about holding violators accountable, but it is also about being fair. And it is about allocating resources to ensure our efforts target the most pernicious forms of ethics violations. Numbers cannot measure these sorts of things alone. At the same time, we recognize that numbers can tell part of the story. They might show the direction an enforcement program is heading. They might reflect the types of cases and conduct that stand as priorities. Or they might offer some perspective on the program's broader goals. Here we offer a summary of both quantitative and qualitative measures that can help the public understand the work of our Enforcement Unit, our key priorities and accomplishments in the last Fiscal Year.

Enforcement Cases

The Enforcement Unit receives tips, complaints and referrals for violations of the City of Oakland ethics laws. In 2020, the Enforcement Unit received a total of 60 complaints. Currently the Enforcement Unit has a total of 74 open Enforcement cases (51 Enforcement Cases and 23 Mediations).

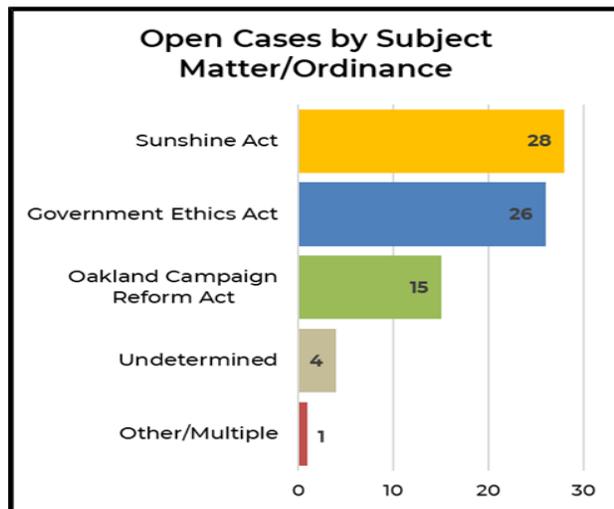


Pursuant to Enforcement Procedures, staff acknowledged in writing every formal complaint received, reviewed, analyzed, and conducted a preliminary investigation of each complaint to determine whether the complaint was within the jurisdiction of the PEC and whether further investigation was needed. To that end, Enforcement closed a total of 40 cases in 2020 (36 Formal Complaints and 4 Mediations), and dismissed a total 27 complaints, in year 2020.

Enforcement Priorities

The Commission continued to prioritize enforcement activities based on the following considerations to determine priority level: 1) the extent of Commission authority to issue penalties; 2) the impact of a Commission decision; 3) public interest, timing, and relevancy, and 4) Commission resources.

authority to issue penalties; 2) the impact of a Commission decision; 3) public interest, timing, and relevancy, and 4) Commission resources.



Types of Cases

As the chart to the right illustrates, most of the Enforcement complaints involved allegations of Sunshine Act violations. The Commission currently has a total of 28 enforcement cases that alleged violations of the Sunshine Act. The second largest group of complaints encompassed 26 complaints of alleged Government Ethics Act violations. There are 15 open complaints of Oakland Campaign Reform Act violations, one (1) case categorized by multiple or other violations, and four (4) undetermined violations.

Investigations

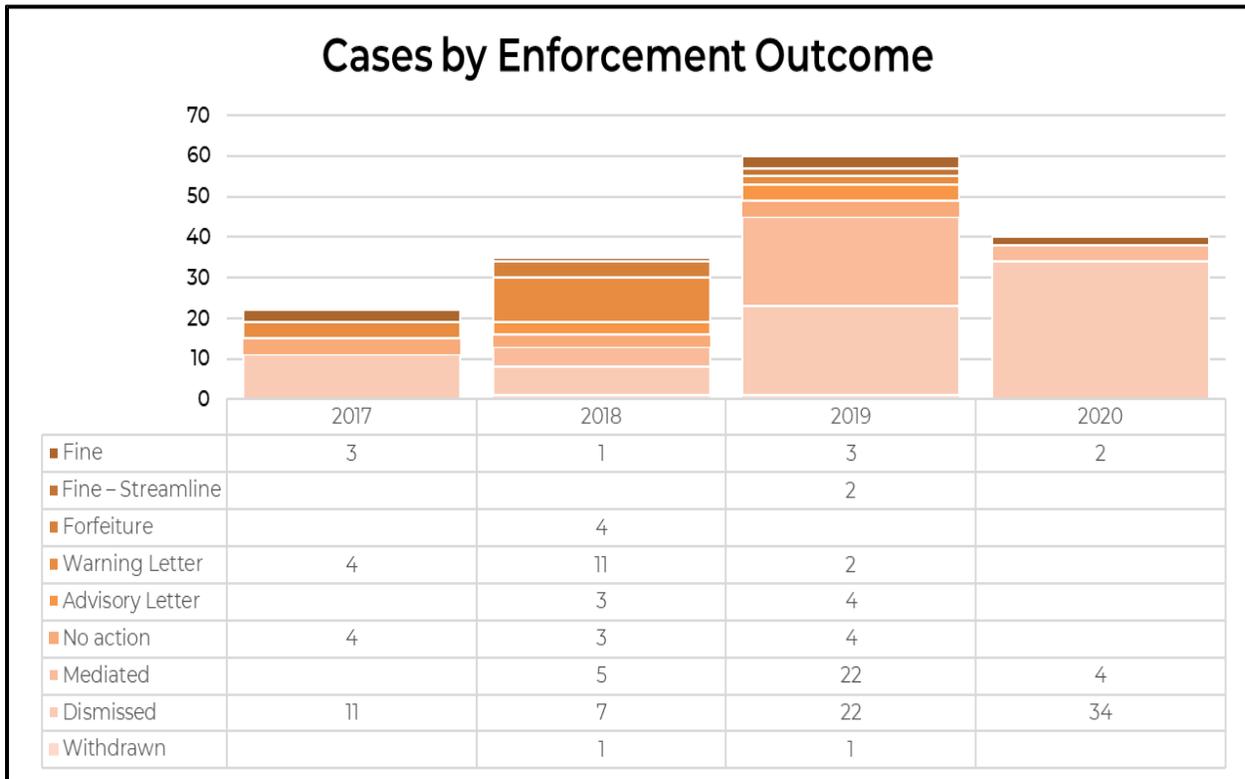
An important aim of the Commission’s Enforcement investigations and inquiries is to conduct a legally based and analytical process designed to gather fair and objective information in order to determine whether or not a violation of the Oakland Ethics Ordinances occurred and, if so, the persons or entities responsible. Although our investigation team is small, we are fortunate to have an investigator who delivers high performance year to year. In 2020, the Enforcement Unit opened a total of 38 active investigations. At year-end 2020, the Enforcement Unit has 15 matters under active investigation. Administrative subpoena authority allows the Enforcement Unit to issue compulsory requests for documents or testimony. In 2020, the Commission investigations issued 15 administrative subpoenas.

Achieving Results Through Contested Hearings

The majority of the Commission’s enforcement actions are settled as stipulated matters, but the Enforcement Unit stands ready to pursue a contested hearing where necessary to protect and advance the Commission’s objectives. The Enforcement Unit has had two (2) contested hearings between 2019 and 2020.

Penalties and Enforcement Outcomes

In year 2020, the Commission imposed monetary remedies in enforcement actions. In total, the Commission imposed \$23,000 in penalty fines.



Non-Monetary Relief Ordered

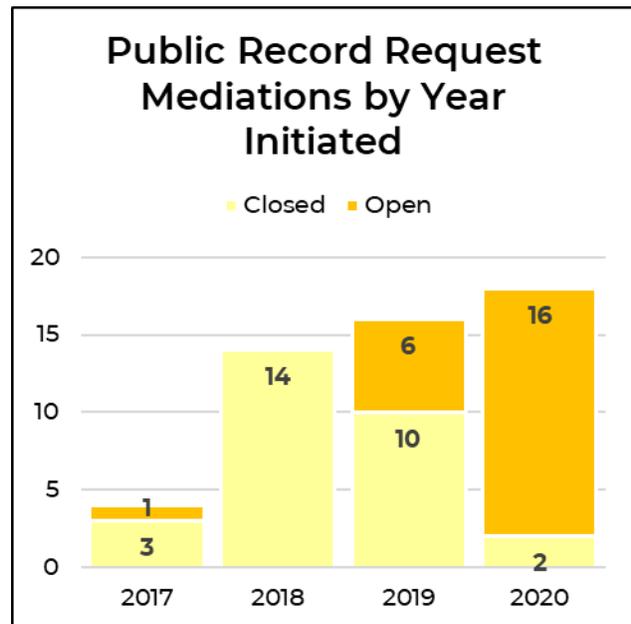
In every enforcement action, Staff seeks to recommend appropriately tailored penalties that advance the mission of the PEC. In addition to the monetary penalties discussed above, there are a variety of potential non-monetary remedies available in the Commission’s actions. Non-monetary remedial relief is important to the Commission’s effort to ensure future compliance with local ethics ordinances and City policies. In year 2020, the Commission also issued advisory letters, warning letters and made recommendations to several departments on gaining compliance with Oakland ethics laws.

Mediation Cases

The Commission's Mediation program seeks to resolve matters between any person whose request to the City of Oakland to inspect or copy public records has been denied, delayed or not completely fulfilled. In year 2020, Enforcement received a total 18 requests for mediation. At year end, Enforcement has a total of 23 open mediation cases. The enforcement unit closed a total of four (4) mediation cases in 2020. Mid-year 2020, The Commission hired an Intern to assist with mediation requests, to facilitate the transfer of public records requests between the City of Oakland and the requestor.

Conclusion

As a result of COVID19, the Enforcement Unit, like the City of Oakland at large faced various logistical challenges. The Enforcement Unit, however, maintained its high-volume productivity, and advanced the mission and goal of the Commission, while working remotely.



Summary of Current Cases:

Since the last Enforcement Program Update in December 2020, the following status changes have occurred.

- 1. In the Matter of Anthony Harbaugh (Case No. 18-11)** Around October 2016, PEC Staff opened a pro-active investigation into allegations of a bribery and misuse of position scheme by a senior building inspector, Commission Staff found evidence that Anthony Harbaugh, a City building inspector, between January 2015 and December 2016, committed, participated in, or aided and abetted Thomas Espinosa in committing multiple violations of the Oakland Government Ethics Act. The alleged violations include the following: soliciting and receiving bribes; making, and seeking to use his official position to influence, governmental decisions in which he had a disqualifying financial interest; misusing City resources for personal financial gain; misusing his City position to induce/coerce others to provide him with economic gain, and; failing to report significant income from individuals with matters before him as a City building inspector. The parties were unable to reach a stipulated settlement, therefore, on November 18, 2019, a hearing was held on the merits of the allegations. Staff has attached a written memorandum on the proposed decision and appropriate penalty, post hearing. (See Action Item).

Item 10 - Executive Director's 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: Whitney Barazoto, Executive Director
DATE: December 17, 2020
RE: Executive Director's Report for the January 4, 2021, PEC Meeting

This memorandum provides an overview of the Public Ethics Commission's (PEC or Commission) significant activities completed in 2020 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.

Alameda County Grand Jury Association

On January 31, 2020, Commission staff provided a keynote presentation to the Alameda County Grand Jury Association on the PEC's 5-year progress since the new City Charter amendment was adopted by Oakland voters in 2014. The Alameda County Grand Jury Association was formed in 2016 as a nonprofit chapter of the California Grand Jurors Association and consists of former grand jurors from throughout the county. The Association's goals are to support the grand jury system in Alameda County and promote local government accountability.

Expanding Equity and Participation in the Campaign Process

In August 2020, the Commission released a report on Oakland's system of campaign finance and public financing laws and outcomes, with an emphasis on who participates in Oakland City elections. The report, [Race for Power: How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race](#), analyzes campaign finance data from the 2014, 2016, and 2018 elections to assess current participation in campaign contributions by factors such as race, income, and inside-versus-outside of Oakland. The report describes the weight of independent expenditures, how campaign donors may influence policy outcomes, and how the system perpetuates distrust in government. It offers a new paradigm for financing campaigns, such as a restructuring of the system, with Oaklander input, in a manner that promotes greater equity and broader participation across racial and socio-economic lines.

Limited Public Financing Program Implementation

The Limited Public Financing (LPF) program provides District City Council candidates with some public funds by way of reimbursements for certain qualified expenditures to be used for campaign expenses. The goal of the program is to help ensure that all individuals have a fair and equal opportunity to participate in the elective and governmental process. The 2020 program began with a training in August and ongoing direct interaction with candidates in facilitating program requirements and

distributing public funds. Seven candidates participated and received some or all of the \$21,857 that was available to them, for a total disbursement of \$137,485 for the 2020 election.

Police Commission Ballot Measure

City Council approved a measure for the ballot on July 23, 2020, to amend the City Charter provisions related to the Police Commission. The amendments aim to strengthen the Commission's independence and structure, and they include a provision that provides the PEC with the authority to investigate allegations of misconduct by Police Commissioners. The language in the measure does not require any action by the PEC; rather, it allows the PEC the authority to investigate complaints against commissioners at the PEC's discretion. The measure passed by 81% support of Oakland voters on the November 3, 2020, ballot.

PEC Legislation

On December 15, 2020, City Council adopted the Commission's proposed amendments to the PEC's enabling ordinance with a vote of 7-0, making the new amendments effective immediately. 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.

Budget and Staffing

The COVID pandemic brought significant changes to the way staff and Commissioners interacted and conducted Commission business, including adjusting to working from home and providing services without in-person contact, as discussed in staff program reports. In addition, the City Administrator recently announced a \$62 million shortfall for the current fiscal year as well as hiring freezes on vacant positions, furloughs and deferrals of salary increases for department heads, and a moratorium on temporary employees, among other reductions. As a result, the PEC will not be able to hire the temporary Ethics Analyst II as planned. In addition, Commission staff is being asked to make reductions of 10-20% and will be engaging in a process of assessing current operations and considering changes to enhance efficiency and potential revenue opportunities in the coming months as part of a broader Citywide effort to engage its entire workforce in budget-saving solutions.

Attachments:
Commission Programs and Priorities

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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: <ul style="list-style-type: none"> -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