

Executive Director's Report



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

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
DATE: September 25, 2020
RE: Executive Director's Report for the October 5, 2020, PEC Meeting

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

Letter to City Administrator and City Council Regarding the Sunshine Ordinance

Following the Commission's discussion at its August 3, 2020, meeting, Commission staff coordinated with Chair Jackson in drafting a letter to the City Administrator and City Council requesting that the Administrator rescind his earlier suspension of the Sunshine Ordinance. A copy of the August 13 letter is attached to this memorandum.

PEC Commissioner Recruitment

The Commission received 10 applications to fill the current and upcoming vacant positions on the Commission. The recruitment subcommittee will interview candidates on October 1 and is expected to select a smaller number of candidates to invite to the November 2020 PEC meeting for final interview. The first vacancy will begin immediately for a term that ends January 21, 2022, and the second vacancy will begin January 22, 2021, for a term that ends January 21, 2024.

PEC Intern – Mediation Coordinator

Carly Johnson has joined the Commission's Enforcement team as Mediation Coordinator. Ms. Johnson is a sophomore at American University in Washington, D.C., double-majoring in Communications, Legal Institutions, Economics, and Government (CLEG) and Philosophy with a minor in Graphic Design. She's interested in government transparency, campaign finance, and equity, having debated about Citizen's United in 8th grade and more recently advocated for new equity policies in her local school district. Ms. Johnson will be interning with the Commission for the Fall semester, conducting mediations and drafting mediation summaries for the Enforcement team.

PEC Intern – Civic Technology and Data Analysis

Chris Mullins has joined the Commission's Disclosure team as Civic Technology and Data Analysis intern. Mr. Mullins is a graduate of Oakland Technical High School and a junior in Applied Computer Science at Make School, a program of Dominican University of California. He is interested in exploring how the intersection of technology and government can serve a more humanitarian agenda. Mr.

Mullins will be interning with the Commission for the Fall semester, assisting with the Commission's disclosure compliance program utilizing campaign finance and lobbyist disclosure data and data projects related to the Commission's review of the public records request system.

Part-Time Investigator

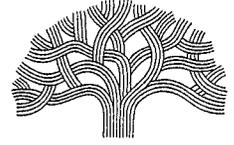
The Commission is recruiting for a part-time investigator to assist with campaign finance and ethics investigations, utilizing one-time funds received for Fiscal Year 2020-21. Staff is in the process of reviewing applications and scheduling interviews for the position, which will be a part-time, temporary role. Information about the position is available on the Commission's [webpage](#).

Attachments:

Letter to City Council and City Administrator Edward Reiskin
Commission Programs and Priorities

Executive Director's Report

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Public Ethics Commission

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August 13, 2020

City Council President Kaplan and Council Members,
City Administrator Edward Reiskin
City of Oakland
1 Frank Ogawa Plaza
Oakland, CA 94612

Dear City Council President Kaplan, Members, and City Administrator Edward Reiskin,

On August 3, 2020, the Public Ethics Commission (PEC) held a public discussion regarding the status of Oakland's open meetings laws during the current COVID-19 pandemic. The Commission reviewed the current framework of temporary adjustments to existing state and local laws and appreciates both the challenges of the present environment as well as the need for Oakland to continue its diligence in operating with transparency for our community.

To that end, we want to communicate our appreciation for the recent amendments to the City Council's Rules of Procedure (Resolution 88266) to restore advance-notice requirements for Council meetings.

In addition, the Commission respectfully requests that 1) the City Administrator issue a new executive order to rescind the suspension of the Sunshine Ordinance, and 2) the City Council return to its usual practice of allowing for public comment to be made upon each item of the Council's agenda at the time the item is being considered.

Background

As you know, the City Administrator's March 23, 2020, Executive Order suspended Oakland's Sunshine Ordinance (codified at O.M.C. Chapter 2.20) as well as the Oakland City Council's Rules of Procedure (codified in Resolution 87044 C.M.S.) for "the duration of the local emergency or until such time as this order is rescinded or the City Council terminates the emergency, whichever is earlier, to the extent necessary to allow the City to conduct its business in accordance with the California Brown Act, Government Code section 54950, et seq."

Executive Director's Report

The City Administrator's Executive Order further stated, "Oakland City Council, Council Committees, and City of Oakland boards and commissions shall conduct their public and closed meetings in accordance with the California Brown Act, Government Code section 54950, et seq., as amended/suspended/waived by the Governor's Executive Orders N-25-50- and N-29-20, including, but not limited to, the notice and speaker provisions, therein, for the duration of the local emergency or until such time as this order is rescinded or the City Council terminates the emergency, whichever is earlier."

Following the City Administrator's March Executive Order, City Council has amended its Rules of Procedure with the most recent and comprehensive changes adopted on July 28, 2020, in Resolution 88266. These changes reinstate many of the Sunshine provisions such as 10-day advanced notice for meetings, among other rules, putting many pre-COVID-19 practices back into place. However, these changes, made merely by Council Resolution, do not apply to any of the other roughly two dozen Oakland boards and commissions. In addition, it leaves all Sunshine Ordinance enforcement provisions ineffectual, eliminating all accountability mechanisms for all boards, commissions, and City Council.

Closing the Loop on Open Meetings Rules During COVID-19

While the Commission understands the initial need for the City Administrator's suspension of the Sunshine Ordinance in March, we believe that the past four months has provided the Council and other boards and commissions with the opportunity to learn and adopt new practices, including running public meetings virtually. With these practices now in place, **we ask that the City Administrator rescind the suspension of the Sunshine Ordinance** to both affirm and codify existing Council rules and show the public that City government is committed to operating at the same standard of transparency as always.

Lastly, the Commission has heard multiple criticisms regarding the timing and consolidation of public comment at the beginning of City Council meetings during this time. We understand that this issue, as well as other practical considerations such as adding video of Council members during meetings, may still be considered during the Council's recess. **We urge your serious consideration of reinstating public comment upon the consideration of each meeting agenda item so that the public can be heard at the time the item is about to be discussed.** We understand that this may be more difficult to manage from a practical perspective; however, it is one of the last remaining concerns that has been raised repeatedly by the public at City Council meetings and brought to our attention during open forum at our Public Ethics Commission meetings. We believe the public deserves to see that its government is working diligently to ensure that COVID-19 does not limit their ability to participate meaningfully in the process. To the contrary, this is an important opportunity to facilitate and maximize participation at a time when our community is impacted so severely.

The Commission believes that addressing these few remaining matters will be well worth the work required in showing that the City stands behind its commitment to accessible and

Executive Director's Report

transparent government meetings. It also would codify many of the recent changes made by City Council to its own procedures via resolution and extend these same measures to all City boards and commissions, so that all public meetings are conducted with the same degree of transparency and the public is assured of the City's commitment to open and accessible government.

Thank you for your consideration of these matters.

Sincerely,

A handwritten signature in black ink, appearing to be 'J. Jackson', with a long horizontal line extending to the right.

James Jackson
Chairman
Public Ethics Commission

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 ✓ 3. Government Integrity Data partnership
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/liaison support/guidance; Sunshine/Meeting agenda posting Compliance Review ✓ 3. Ongoing: advice calls, in-person trainings, ethics orientation for new employees (12), supervisor academy (3-4), and PEC newsletter (2) 4. Sunshine and Lobbyist education materials
Outreach/ Engage	Citizens and regulated community know about the PEC and know that the PEC is responsive to their complaints/questions about government ethics, campaign finance, or transparency concerns.	The PEC actively engages with clients and citizens demonstrating a collaborative transparency approach that fosters two-way interaction between citizens and government to enhance mutual knowledge, understanding, and trust.	<ol style="list-style-type: none"> 1. Outreach to client groups: -City staff/officials -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

Executive Director's Report

	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