REGULAR MEETING AGENDA

1. Roll Call and Determination of Quorum.

2. Staff and Commission Announcements.

3. Open Forum.

CONSENT ITEMS

   a. February 5, 2018, Regular Meeting Minutes (Attachment 1 – Minutes)

GUEST PRESENTATION

5. Open Disclosure 2018. The Commission will hear from Tom Dooner, a volunteer with the OpenOakland civic innovation brigade that is part of the Code for America organization. Mr. Dooner will share plans for the expansion of Open Disclosure, a web-based project to visualize the Commission’s campaign data, for the 2018 election season. (Attachment 2 – Slides)

ACTION ITEMS

6. In the Matter of Kaplan for Oakland City Council 2012, Kaplan for Oakland Mayor 2014, and Campaign for Safe Streets and Local Jobs; Case No. 14-10. The Commission received a complaint in 2014 alleging that funds from Coalition for Safe Streets and Local Jobs (for Alameda County, Organized by Rebecca Kaplan), a county ballot measure committee controlled, at all relevant times, by Councilmember Rebecca Kaplan, were used to pay for expenditures related to Councilmember Kaplan’s 2012 re-election campaign or 2014 mayoral campaign, in violation of the Oakland Campaign Reform Act. Staff completed its

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1 If more than one item is on Consent, all Consent items will be voted on all at once, unless a Commissioner requests removal of an item from Consent prior to the vote.
investigation of the allegation and found insufficient evidence to conclude that funds from Coalition for Safe Streets and Local Jobs (for Alameda County, Organized by Rebecca Kaplan) were used to pay for expenses related to Councilmember Kaplan’s 2012 re-election campaign or 2014 mayoral campaign and recommends that the Commission close this matter with an advisory letter to Councilmember Kaplan. (Attachment 3 – Memorandum)

7. **In the Matter of Michael Colbruno; Case No. 16-01.** The Commission received a complaint in 2016 alleging that Michael Colbruno violated the Oakland Lobbyist Registration Act (LRA) by failing to register as a lobbyist in 2012 and 2014. Staff completed its investigation and found that Mr. Colbruno failed to timely register as a lobbyist in 2014 and failed to timely file quarterly lobbyist reports for 2012, 2014, and 2015, in violation of the LRA. Staff recommends that the Commission adopt the proposed stipulation, which includes a $2,500 penalty. (Attachment 4 – Memorandum, Attachment 5 – Stipulation)

**DISCUSSION ITEMS**

8. **Subcommittee Reports.** Commissioners may discuss subcommittee assignments, create a new subcommittee, or report on work done in subcommittees since the Commission’s last regular meeting. Current or recent subcommittees include the following:
   a. **Campaign Finance Subcommittee** – Jonathan Stein (Chair), Lisa Crowfoot, and James Jackson
   b. **Education and Outreach Subcommittee** – Krisida Nishioka (Chair), James Jackson, and Gail Kong
   c. **Lobbyist Registration Act Subcommittee** (temporary ad hoc) – Jodie Smith (Chair) and Lisa Crowfoot

**INFORMATION ITEMS**

9. **Disclosure Program.** Lead Analyst Suzanne Doran provides a report of recent disclosure and data illumination activities. (Attachment 6 – Disclosure Report)

10. **Education and Engagement Program.** Commissioners will review Ethics Analyst Jelani Killings’ report on the Commission’s education and outreach activities. (Attachment 7 – Education Report)

11. **Enforcement Program.** Deputy Director Milad Dalju provides an update on the Commission’s enforcement work since the last regular Commission meeting. (Attachment 8 – Enforcement Report)
12. **Executive Director’s Report.** Executive Director Whitney Barazoto reports on overall projects, priorities, and significant activities since the Commission’s last meeting. ([Attachment 9 – 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.oaklandnet.com/pec](http://www.oaklandnet.com/pec).

3/23/18

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Do you need an ASL, Cantonese, Mandarin or Spanish interpreter or other assistance to participate? Please email ethicscommission@oaklandnet.com or call (510) 238-3593 or (510) 238-2007 for TDD/TTY five days in advance.

¿Necesita un intérprete en español, cantonés o mandarín, u otra ayuda para participar? Por favor envíe un correo electrónico a ethicscommission@oaklandnet.com o llame al (510) 238-3593 o al (510) 238-2007 para TDD/TTY por lo menos cinco días antes de la reunión. Gracias.

你需要手語，西班牙語，粵語或國語翻譯服務嗎？請在會議前五個工作天電郵 ethicscommission@oaklandnet.com 或 致電 (510) 238-3593 或 (510) 238-2007 TDD/TTY。
REGULAR MEETING MINUTES

1. Roll Call and Determination of Quorum.

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

Members present: Commissioners Stein, Smith, Crowfoot, Kong, Jackson, and Nishioka.

Staff present: Whitney Barazoto, Milad Dalju, and Simon Russell

City Attorney Staff: Trish Hynes, Deputy City Attorney

2. Staff and Commission Announcements.

Chair Stein welcomed Commissioner Jackson.

3. Open Forum.

There were no public comments.

CONSENT ITEMS¹

   a. January 8, 2018, Regular Meeting Minutes

¹ If more than one item is on Consent, all Consent items will be voted on all at once, unless a Commissioner requests removal of an item from Consent prior to the vote.
Commissioner Crowfoot requested adding the following: 1) amend Item 8 to reflect that Commissioner Smith accepted to serve as chair for the *ad-hoc* Lobbyist Registration Subcommittee and 2) amend Item 11 reflecting that the Commission requested the City Attorney to check on an outstanding request for a City Attorney opinion.

Commissioner Crowfoot moved and Commissioner Nishioka seconded to approve the minutes with the amendments.

Motion passed 5-0.

Commissioner Jackson abstained due to not being present at the meeting.

There were no public comments.

**ACTION ITEMS**

5. **Limited Public Financing Guide for 2018.**


Commissioner Stein moved and Commissioner Nishioka seconded directing commission staff to edit and finalize guide.

Motion passed 6-0.

There were no public comments.

6. **City Council Salary Adjustment as Required by City Charter.**

The Commission discussed the adjustment to the salaries of Oakland City Councilmembers according to the increase in the Consumer Price Index as required by the Oakland City Charter.

Commissioner Stein requested to revise language to allow Councilmembers to accept up to the maximum approved amount.

Commissioner Crowfoot moved and Commissioner Kong seconded to approve the staff recommendation with the language change.

Motion passed 6-0.

There were no public comments.
7. In the Matter of the Marc Weinstein; Case No. 15-06.

Staff recommended that the Commission close this matter without further action, as described in the attached memorandum.

Commissioner Nishioka moved and Commissioner Jackson seconded to accept the staff recommendation.

Motion passed 6-0.

There were no public comments.

8. In the Matter of the Oakland Police Department; Case No. 14-09.

Staff conducted mediation pursuant to the Oakland Sunshine Ordinance and presented a summary of the case with a recommendation that the Commission close this matter without further action.

Commissioner Kong moved and Commissioner Nishioka seconded to approve recommendation.

Motion passed 6-0.

There were no public comments.

DISCUSSION ITEMS

9. Subcommittee Reports. Commissioners may discuss subcommittee assignments, create a new subcommittee, or report on work done in subcommittees since the Commission’s last regular meeting. Current or recent subcommittees include the following:

   a. Campaign Finance Subcommittee – Jonathan Stein (Chair) and Lisa Crowfoot
      Chair Stein shared that the subcommittee participated in an ACLU meeting.
      An intern from the UC Berkeley Public Policy school is assisting the Public Ethics Commission in conducting outreach to community members.
      Chair Stein asked for volunteers to assist in outreach.
      Commissioners Crowfoot, Kong and Nishioka volunteered.
      Commissioner Jackson accepted to be a member of the subcommittee.

   b. Education and Outreach Subcommittee – Krisida Nishioka (Chair) and Gail Kong
      There were no updates.
      Commissioner Jackson accepted to be a member of the subcommittee.
c. **Lobbyist Registration Act Subcommittee** (temporary *ad hoc*) – Jodie Smith (Chair) and Lisa Crowfoot

Commissioner Smith shared that updates would be presented in Item 10.

### 10. Lobbyist Registration Act Guide.

The Lobbyist Registration Act (LRA) Subcommittee completed revisions to the LRA Guide following City Council’s adoption of the Commission’s proposed amendments to the LRA on January 16, 2018.

Commissioners discussed the guide and made suggestions.

There were no public comments.

### INFORMATION ITEMS


Whitney Barazoto, Executive Director, presented the Oakland campaign contribution limits and expenditure ceiling amounts for 2018, which were recently adjusted per the increase in the Consumer Price Index as required annually by the Oakland Campaign Reform Act.

There were no public comments.

#### 12. Disclosure Program.

Ms. Barazoto presented a report of recent disclosure and data illumination activities.

There were no public comments.

#### 13. Education and Engagement Program.

Ms. Barazoto reported on the Commission’s education and outreach activities.

There were no public comments.

#### 14. Enforcement Program.

Mr. Dalju provided an update on the Commission’s enforcement work since the last regular Commission meeting.

There were no public comments.

#### 15. Executive Director’s Report.
Ms. Barazoto reported on overall projects, priorities, and significant activities since the Commission’s last meeting.

There were no public comments.

The meeting adjourned at 7:35 p.m.
Open Disclosure

Visualizing 2018 Campaign Finance
Empower Oakland voters with *timely, accurate, and useful* information about the role of money in their local elections

@tomdooner
History

- **2014**: We covered the Mayoral election
- **2016**: We covered the ballot measures, school board, and city council elections
- **2018**: We will cover everything on the ballot in November (and probably June!)
California’s online source for local campaign finance data

We provide transparent, non-partisan campaign contribution and expenditure data in an accessible and easy to understand format. We hope this site will engage the voting public and raise awareness and accountability. Ultimately, this is one step toward shifting politics into a movement of civic engagement and ultimate citizen action.

About this project:

Our goal is to provide transparent non-partisan campaign contribution data in an accessible and easy to understand format. We hope this site will engage the voting public and raise awareness and accountability. Ultimately, this is one step toward shifting politics into a movement of civic engagement and ultimate citizen action.
Oakland

City Council District 4

Adelle Jones
Attorney-at-Law
amount collected $85,859

Joseph Marcus Smitherson-Johannesburg
Incumbent Councilmember for District 4
amount collected $82,330

Michael Blackburn
Community Advocate
amount collected $63,103

Gisele Bündchen
Councilmember for District 4 Oakland Board of Education
amount collected $17,939

Sunita Daliwalla
Educator and School Administrator
Candidate has not filed any campaign finance forms.
Oakland

City-wide Election

Upcoming Races

Ballot Measures

- Measure AA
  Minimum Wage Increase Initiative

- Measure BB
  Ethics Commission Authority Increase Charter Amendment

- Measure CC
  City of Oakland Police Services Parcel Tax and Parking Tax

Mayor of Oakland

City Attorney

City Auditor

City Council

- City Council At-Large
- City Council District 1
- City Council District 4

City Council District 4 Candidates

Joseph Marcus Smitherson-Johannesburg

Incumbent | Councilmember for District 4
www.josephmarcus4council.com
@jmsj4council

Candidate Bio

Candidate bio is here. Joseph Marcus Smitherson-Johannesburg has been an Oakland resident his entire life. He has a Master in Political Science from CalPoly and a PhD. in Philosophy from the University of California - Berkeley with Honors. Smitherson-Johannesburg is a board mem...

Read full text

Alert: We have become aware of an issue with the accuracy of data for this candidate and are working to resolve the issue.

Contributions

- $82,330

Expenditures

- $9,594

Loans

- $0
<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Contributions</strong></td>
<td>$82,330</td>
</tr>
<tr>
<td><strong>Expenditures</strong></td>
<td>-$9,594</td>
</tr>
<tr>
<td><strong>Loans</strong></td>
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</tr>
<tr>
<td><strong>Current Balance</strong></td>
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### Money coming in

#### Contributions

- **Individual**: $34,547
- **Not Itemized**: $16,394
- **Committee**: $6,229
- **Self-Funded**: $2,554

*(Small (unitemized) contributions are those under $100.)*

### Money going out

#### Expenditures

- **T.V./Cable Airtime and Production Costs**: $4,544
- **Campaign Consultants, Campaign Filing/ Ballot Fees**: $2,812
- **Campaign Literature and Mailings**: $1,397
- **Campaign Paraphernalia/Misc.**: $429
- **Civic Donations, Fundraising Events, Information Technology Costs (Email, Internet)**: $254
- **Office Expenses, Phone Banks, Polling, and Survey Research**: $120
- **Postage, Delivery, and Messenger Services**: $87
- **Professional Services (Legal, Accounting)**: $50
Measure BB
Ethics Commission Authority Increase Charter Amendment

Summary
Shall the Charter of the City of Oakland be amended to provide the Public Ethics Commission greater independence, broader enforcement authority, powers and a third line of text shown here before this section truncates with ellipsis...

Supporting Money

$1,556,456

- Within Oakland 56%
- In-State 38%
- Out-of-State 12%

Opposing Money

$56,858

- Within Oakland 56%
- In-State 38%
- Out-of-State 12%
<table>
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</thead>
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<td>Mayor of Oakland</td>
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<tr>
<td><strong>Supporting Committees</strong></td>
<td><strong>Opposing Committees</strong></td>
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<td>Oaklanders for Liberty and Justice</td>
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<td><a href="#">37%</a></td>
<td></td>
<td><a href="#">46%</a></td>
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<tr>
<td>Oaklanders for Ethical Government</td>
<td>$152,330</td>
<td>Ethical Californians</td>
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<td><a href="#">29%</a></td>
<td></td>
<td><a href="#">33%</a></td>
</tr>
<tr>
<td>Americans for Liberty</td>
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<td>Committee of Police Officers and Security Officials for Liberty</td>
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<tr>
<td><a href="#">21%</a></td>
<td></td>
<td><a href="#">12%</a></td>
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<td>Golden State Citizens for Positive Reform</td>
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<tr>
<td><a href="#">6%</a></td>
<td></td>
<td><a href="#">7%</a></td>
</tr>
<tr>
<td>The Public Commission for Ethical Civic Reform</td>
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<tr>
<td><a href="#">4%</a></td>
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<tr>
<td>The Public Commission for Ethical Civic Reform</td>
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<td></td>
</tr>
</tbody>
</table>
Next Steps

- Search functionality
- Contributions by location
- Improving display of Independent Expenditures
Feedback Requested

- How can we help the PEC achieve its goals through this project?
- How can we continue to work together for the benefit of Oaklanders?
Thanks!

Tom Dooner
tomdooner@gmail.com
@tomdooner
TO: Public Ethics Commission  
FROM: Milad Dalju, Deputy Director  
DATE: March 23, 2018  
RE: Case No. 14-10; Kaplan for Oakland City Council 2012, Kaplan for Oakland Mayor 2014, and Campaign for Safe Streets and Local Jobs

I. INTRODUCTION

On June 23, 2014, the Contra Costa Times published an article alleging that Councilmember Rebecca Kaplan’s ballot measure committee paid for work done by consultants for Councilmember Kaplan’s mayoral campaigns in 2010 and 2014. On the same day and again on June 26, 2014, the Commission received a formal complaint referring to the allegations in the news article.

On or about June 30, 2014, Commission Staff opened an investigation to determine whether funds from Coalition for Safe Streets and Local Jobs (for Alameda County, Organized by Rebecca Kaplan) (Safe Streets), a county ballot measure committee controlled, at all relevant times, by Councilmember Kaplan, were used to pay for expenditures related to Councilmember Kaplan’s 2010 mayoral campaign, 2012 re-election campaign, or 2014 mayoral campaign, in violation of the Oakland Campaign Reform Act (OCRA).

II. SUMMARY OF LAW

A candidate for City office may not have more than one campaign committee and one checking account for the City office being sought. All expenditures for the office being sought must be made from the candidate’s single campaign committee and the committee’s designated bank account.

For the 2012 and 2014 elections, a candidate for City office who accepted the voluntary expenditure ceiling and her designated campaign committee was prohibited from receiving contributions in excess of $700 from any single person and $1,500 from any single broad-based committee.

1 Oakland Municipal Code (O.M.C.) § 3.12.110. All legal references and discussions of law pertain to the law as it existed at the time of the alleged violation.

2 Id.

A committee formed to support or oppose a ballot measure is not restricted in the amount of contributions it receives from a single person or single broad-based committee, even if the ballot measure committee is controlled by a candidate for City office.\textsuperscript{4}

The Commission may impose penalties of up to three times the amount improperly contributed or expended on any person who violates OCRA.\textsuperscript{5} The Commission does not have the authority to impose penalties for violations of OCRA that occurred more than two years prior to receiving the complaint alleging that the violations occurred.\textsuperscript{6}

\section*{III. SCOPE OF INVESTIGATION}

Due to the aforementioned two-year statute of limitations and the fact that Safe Streets terminated on June 30, 2014, the scope of the investigation was limited to determining whether, between July 1, 2012, and June 30, 2014: 1) Safe Streets funds were used to make expenditures in support of Councilmember Kaplan’s 2012 re-election campaign, and; 2) Safe Streets funds were used to make expenditures in support of Councilmember Kaplan’s 2014 mayoral campaign.

In August 2014, Commission Staff referred the allegation that Safe Streets made expenditures in support of Councilmember Kaplan’s 2010 mayoral campaign to the California Fair Political Practices Commission (FPPC). The FPPC completed an investigation into the allegation and found on December 31, 2015, that there was “… insufficient evidence to support the allegation that [Safe Streets] paid for Kaplan for Mayor 2010 committee rent, staffers payments or coordinated contribution payments to a general purpose committee for the purpose of making slate mailers to support Kaplan for Mayor 2010.”\textsuperscript{7}

As part of the Commission’s investigation, Commission Staff reviewed the campaign statements of Safe Streets, Councilmember Kaplan’s 2012 re-election campaign committee, and Councilmember Kaplan’s 2014 mayoral campaign committee. Commission Staff also requested, received, and reviewed Safe Streets’ campaign records, financial and communication records of vendors and consultants paid for by Safe Streets funds, and interviewed consultants and vendors paid for by Safe Streets funds.

\section*{IV. FINDINGS}

\textit{Background and Allegations:}

Councilmember Kaplan was a successful candidate for City Council in the November 2008 election, and has been a Councilmember since January 2009. She was an unsuccessful candidate for Mayor in the November 2010, election, a successful candidate for re-election to City Council in the November 2012 election, an unsuccessful candidate for Mayor in the November 2014 election, and a successful candidate for re-election to City Council in the November 2016 election.

\textsuperscript{4} O.M.C. §§ 3.12.050(D) & 3.12.060(D).
\textsuperscript{5} O.M.C. § 3.12.280(E).
\textsuperscript{6} O.M.C. § 3.12.280(F).
\textsuperscript{7} http://www.fppc.ca.gov/content/dam/fppc/documents/enf_letter/02-01-16/KaplanforMayor2010-20140630.pdf
Safe Streets was formed in August 2010 as a committee primarily formed to support Alameda County Ballot Measure F, which appeared on the November 2010 Alameda County ballot. Councilmember Rebecca Kaplan was listed as treasurer and principal officer of Safe Streets. Measure F was approved by the voters in November 2010.

According to the news article published in 2014, a campaign consultant stated that part of his salary in 2010 came from Safe Streets even though he worked exclusively on Councilmember Kaplan’s 2010 mayoral campaign. The news article alleged that Councilmember Kaplan had circumvented the City’s contribution limits by using Safe Streets to pay campaign consultants that worked on her 2010 mayoral campaign and were working on her 2014 mayoral campaign.

**Councilmember Kaplan’s 2012 Re-election Campaign**

On September 26, 2011, Kaplan formed a campaign committee for her 2012 reelection campaign. She was re-elected to the City Council in November 2012 and terminated her 2012 re-election campaign committee on June 18, 2013.

In April 2012, Safe Streets amended its campaign statements to reflect that it was primarily formed to support an as-yet unnamed Alameda County ballot measure. Councilmember Kaplan remained listed as Safe Streets’ treasurer and principal officer.

On July 1, 2012, Safe streets had a cash balance of $193, and between July 1 and December 31, 2010, it received only single contribution of $500 and spent approximately $1,200. On October 8, 2012, Safe Streets amended its address to 1611 Telegraph Avenue, Suite 804, the same address as Councilmember Kaplan’s 2012 re-election campaign and Jason Overman’s consulting company at the time. Mr. Overman, at the time, was a full-time City employee in Councilmember Kaplan’s office and also worked on her 2012 re-election campaign. The ballot measure that Safe Streets was formed to support, Measure B1, did not pass in November 2012.

Between July 1 and December 31, 2012, Safe Streets funds were not used to pay for rent. Between July 1, 2012, and June 30, 2013, Safe Street funds were not used to pay for campaign consultants.

**Councilmember Kaplan’s 2014 Mayoral Campaign**

On June 20, 2013, Safe Streets amended its campaign statements to reflect that Mr. Overman was its treasurer, that Councilmember Kaplan was its principal officer, and that it was primarily formed to support “Alameda County Transportation Sales Tax Renewal (TBD).”

Between July 1, 2013, and June 30, 2014, Safe Streets received approximately $60,000 in contributions, and made approximately $40,000 in expenditures, including paying Mr. Overman approximately $20,000 in consulting fees and $1,100 for his monthly cell phone bill. Mr. Overman was a full-time City employee in Councilmember Kaplan’s Office until June 20, 2014.

On June 4, 2014, Mr. Overman filed a campaign statement that established a committee for Councilmember’s Kaplan’s 2014 mayoral campaign, listing himself as the committee’s treasurer.

Between June 5 and June 30, 2014, the Councilmember Kaplan’s 2014 mayoral campaign raised approximately $100,000 in contributions from 101 donors. During that period, Councilmember Kaplan’s 2014 mayoral campaign paid only a single consultant, Diane Le, a total of $500, and
did not pay Mr. Overman for consulting.

However, Safe Streets paid Mr. Overman $3,000 for the January 1 through April 30, 2014, period, another $3,000 for the May 1 through June 30, 2014, period, and his cell phone bill for the entire six-month period. Safe Streets also paid Ms. Le $3,500 for the May 1 through June 30, 2014, period, but only raised $5,175 in contributions during that period.

On June 23, 2014, the Contra Costa Times published the aforementioned article alleging that Councilmember Kaplan used Safe Streets funds to pay for a campaign consultant’s work on her 2010 mayoral campaign and to supplement Mr. Overman’s City salary for work he was doing for her 2014 mayoral campaign.

On June 23 and June 30, 2014, Mr. Overman transferred all the funds remaining in Safe Streets, totaling approximately $20,000, to another ballot measure committee and terminated Safe Streets.

According to Mr. Overman, he started working on Councilmember Kaplan’s 2014 mayoral campaign as a volunteer in May 2014, and all the work he did in May and June of 2014 in support of Councilmember Kaplan’s 2014 mayoral campaign was done in his spare time and separate from the time he was compensated for as a full-time City employee and Safe Streets’ consultant. Mr. Overman also stated that he was never compensated by Safe Streets for any work he did in support of Councilmember Kaplan’s 2014 mayoral campaign.

According to Ms. Le, she was hired by Safe Streets in May 2014 to fundraise for Safe Streets, hired by Councilmember Kaplan’s 2014 mayoral campaign in June 2014 to fundraise for Councilmember Kaplan’s 2014 mayoral campaign, and was never compensated by Safe Streets for any work she did in support of Councilmember Kaplan’s 2014 mayoral campaign.

Ms. Le and Mr. Overman were both paid consultants on Councilmember Kaplan’s 2014 mayoral campaign during the July 1 through December 31, 2014, reporting periods. Councilmember Kaplan lost the November 2014 mayoral election, and her 2014 mayoral campaign committee was terminated on December 31, 2014.

V. CONCLUSION

The investigation did not find sufficient evidence to substantiate the allegation that funds raised by Safe Streets were used to pay for expenses related to Councilmember Kaplan’s 2012 re-election campaign or her 2014 mayoral campaign. Though for at least two months Mr. Overman worked on Councilmember Kaplan’s 2014 mayoral campaign without compensation from that campaign, while being paid as a full-time employee of the City and a consultant by Safe Streets, his actions were not in violation of OCRA because OCRA does not prohibit an employee of the City or a paid consultant of a ballot-measure committee from volunteering for a candidate for City office’s campaign, even when the candidate controls the ballot-measure committee.

Ms. Le’s actions also were not in violation of OCRA. Though she was being paid by simultaneously by Safe Streets and Councilmember Kaplan’s 2014 mayoral campaign, her actions were not in violation of OCRA because OCRA does not limit the number of campaigns a political consultant can be paid to work on simultaneously.

Commission Staff also reviewed all three committees’ campaign statements and internal records
for evidence that Safe Streets paid for expenses related to Councilmember Kaplan’s 2012 re-election campaign or 2014 mayoral campaign, and did not find sufficient evidence to conclude that Safe Street funds were used to pay for expenses related to either of Councilmember Kaplan’s campaigns.

VI. RECOMMENDATION

For the reasons stated above, Commission Staff recommends that this matter be closed with an advisory letter to Councilmember Kaplan informing her of findings in this matter and the pertinent law.
TO: Public Ethics Commission  
FROM: Milad Dalju, Deputy Director  
DATE: March 23, 2018  
RE: Case No. 16-01; In the Matter of Michael Colbruno

I. INTRODUCTION

Commission Staff completed an investigation into allegations that Michael Colbruno violated the Oakland Lobbyist Registration Act (LRA) by failing to register as a lobbyist in 2012 and 2014.

Commission Staff’s investigation found that Mr. Colbruno failed to timely register as a lobbyist in 2014 and failed to timely file quarterly lobbyist reports for 2012, 2014, and 2015, in violation of the LRA.

Mr. Colbruno filed the 11 missing lobbyist forms within days of being contacted by Commission Staff and has agreed to a proposed stipulation admitting to the violations. Commission Staff recommends that the Commission adopt the proposed stipulation, which includes a $2,500 penalty.

II. SUMMARY OF LAW

The Oakland Government Ethics Act prohibits a City employee or official from using City resources for campaign activities.1 It also prohibits a City employee, official, or candidate for City office, from soliciting political contributions from a City employee, unless the solicitation is part of a solicitation made to the general public.2

The Oakland Government Ethics Act was adopted on December 8, 2014, and therefore does not apply to events that occurred prior to December 8, 2014. In addition, the Oakland Government Ethics Act specifically prohibits the Commission from applying its enforcement authority to alleged violations of the Oakland Government Ethics Act that occurred prior to December 8, 2014.3

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1 Oakland Municipal Code (O.M.C.) § 2.25.060(A).
2 O.M.C. § 2.25.060(B)(3).
3 O.M.C. § 2.25.020(D).
The Oakland Lobbyist Registration Act defines a lobbyist as any person who receives or is entitled to receive $1,000 or more in a calendar month to communicate directly or through agents with any public officials, officers, or designated employees, for the purpose of influencing any action of the City.⁴

The Oakland Lobbyist Registration Act requires every individual who qualifies as a lobbyist to file with the City a lobbyist registration form every year by January 31, and a lobbyist quarterly report within 30 days of the end of each calendar quarter, until s/he both ceases to qualify as a lobbyist and files a notice of termination with the City.⁵

The Oakland Lobbyist Registration Act was adopted in 2002 and applies to all conduct that has occurred since 2002. However, the Oakland Lobbyist Registration Act prohibits the Commission from applying its enforcement authority to alleged violation of the Oakland Lobbyist Registration Act that occurred more than four years prior to the date that the Commission sent written notification of the allegation to the respondent.⁶

III. SCOPE OF INVESTIGATION

On January 12, 2016, Commission Staff received an email from a member of the public referring to an article published in 2014 that claimed Jean Quan’s 2014 mayoral campaign used City resources to solicit campaign contributions from City employees. The email also alleged that Mr. Colbruno failed to register as a lobbyist in 2012 and 2014.

Commission Staff conducted a preliminary review of the allegations in the email and news article. It found that the alleged violations related to Ms. Quan’s 2014 mayoral campaign did not fall within the enforcement authority of the Commission since they occurred prior to the adoption of the Oakland Government Ethics Act on December 8, 2014. Therefore, the allegations related to Ms. Quan’s 2014 mayoral campaign were not included in the scope of the Commission’s investigation.

Commission Staff also reviewed lobbyist forms filed by Mr. Colbruno with the City Clerk’s Office since 2012, and determined that there was sufficient information to warrant an investigation into the allegation that Mr. Colbruno failed to register as a lobbyist in 2012 and 2014.

On April 27, 2016, Commission Staff informed Mr. Colbruno that the Commission was opening an investigation into allegations that he failed to register as a lobbyist in 2012 and 2014. Due to the Oakland Lobbyist Registration Act’s four-year statute-of-limitations, the scope of the investigation did not include any alleged violations that occurred prior to April 27, 2012.

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⁴ O.M.C. § 3.20.030 (D).
⁵ O.M.C. §§ 3.20.050 & 3.20.110.
⁶ O.M.C. § 3.20.200.
IV. FINDINGS

Mr. Colbruno registered as a lobbyist in 2002 and has been an active lobbyist since. As of April 7, 2016, the City Clerk’s Office did not have a lobbyist registration form for 2014 or lobbyist quarterly reports for all of 2012, 2014, and the first half of 2015, for Mr. Colbruno.

On April 7, 2016, Commission Staff informed Mr. Colbruno of the 11 missing lobbyist forms. In response, Mr. Colbruno asserted the following: 1) that he timely filed all required lobbyist forms with the City Clerk; 2) that the City Clerk kept filed lobbyist forms in a binder in a section of the City Clerk’s Office that was available to the public without supervision, and; 3) that someone removed the 11 missing lobbyist forms from the binders in the City Clerk’s Office. On April 11, 2016, Mr. Colbruno filed each of the 11 missing lobbyist forms with the City Clerk.

V. CONCLUSION

Commission Staff’s investigation found that Mr. Colbruno violated the Oakland Lobbyist Registration Act by: 1) failing to timely file a quarterly lobbyist report for each calendar quarter in 2012; 2) failing to timely file a lobbyist registration form for 2014 and a quarterly lobbyist report for each calendar quarter in 2014, and; 3) failing to timely file a quarterly lobbyist report for the first two calendar quarters in 2015.

VI. RECOMMENDATION

Mr. Colbruno has agreed to a proposed stipulation that includes a $2,500 penalty. The proposed penalty amount is based on the mitigating and aggravating factors in this matter, as described in the proposed stipulation. Commission Staff recommends that the Commission adopt the proposed stipulation as the final resolution to this matter.
IN THE MATTER OF
MICHAEL COLBRUNO,
Respondent.

STIPULATION, DECISION AND ORDER

INTRODUCTION

In 2016, the City of Oakland Public Ethics Commission (Commission) opened an investigation into allegations that Michael Colbruno failed to file lobbyist forms in violation of the Oakland Lobbyist Registration Act (LRA).

The Commission’s investigation found that Mr. Colbruno failed to timely file a lobbyist registration form for 2014 and failed to timely file quarterly lobbyist reports for 2012, 2014, and 2015, in violation of the LRA.

SUMMARY OF LAW

All statutory references and discussions of law pertain to the referenced statutes and laws as they existed at the time of the violations.

Annual Registration Requirement for Lobbyists

Any person who receives or is entitled to receive $1,000 or more in a calendar month to communicate directly or through agents with any public officials, officers, or designated employees, for the purpose of influencing any action of the City of Oakland (City) qualifies as
a lobbyist.\textsuperscript{1} No person may act as a lobbyist before registering as a lobbyist with the City.\textsuperscript{2} A lobbyist is required to file a lobbyist registration form with the City every year by January 31 until s/he has ceased to qualify as a lobbyist and files a notice of termination with the City.\textsuperscript{3}

**Quarterly Reporting Requirement for Lobbyists**

Once a person qualifies as a lobbyist, s/he is required to file a lobbyist quarterly report with the City within 30 days of the end of each calendar quarter until s/he both ceases to qualify as a lobbyist and files a notice of termination with the City.\textsuperscript{4}

**SUMMARY OF FACTS**

Michael Colbruno registered as a lobbyist in 2002 and has been an active lobbyist since. Mr. Colbruno also served on the City’s Planning Commission from 2006 until 2013 and has been a member of the Port of Oakland Board of Commissioners since 2013.

On January 12, 2016, the Commission received a complaint alleging that Mr. Colbruno had failed to register as lobbyist in 2012 and 2014. On March 28, 2016, the Commission’s Enforcement Staff (Enforcement Staff) informed Mr. Colbruno of the allegations against him.

On April 7, 2016, Enforcement Staff contacted the City Clerk and requested all lobbyist registration forms and quarterly lobbyist reports it had received for Mr. Colbruno. According to the City Clerk’s records, it had not received a lobbyist registration form for 2014 or quarterly lobbyist reports for all of 2012, all of 2014, and the first two quarters of 2015, for Mr. Colbruno.

On the same day, Enforcement Staff informed Mr. Colbruno that he had failed to file a lobbyist registration form for 2014 and lobbyist quarterly reports for all of 2012, 2014, and the first half of 2015.

In response, Mr. Colbruno asserted the following: 1) that he timely filed all required lobbyist forms with the City Clerk; 2) that the City Clerk kept filed lobbyist forms in a binder in a section of the City Clerk’s Office that was available to the public without supervision, and;

\textsuperscript{1} Oakland Municipal Code (O.M.C.) § 3.20.030 (D).
\textsuperscript{2} O.M.C. § 3.20.040(A).
\textsuperscript{3} O.M.C. § 3.20.050.
\textsuperscript{4} O.M.C. § 3.20.110.
3) that someone removed the 11 missing lobbyist forms from the binders in the City Clerk’s Office.

However, Mr. Colbruno was not able to provide any evidence that he timely filed the 11 missing lobbyist forms with the City Clerk and agreed to file each of the missing lobbyist forms. Additionally, the City Clerk, at all relevant times, sent a copy of all lobbyist forms it received to Commission Staff to post on the Commission’s website. A review of Commission Staff’s records found that it never received a copy of any of the 11 missing lobbyist forms from the City Clerk.

On April 11, 2016, Mr. Colbruno filed each of the 11 missing lobbyist forms with the City Clerk.

**VIOLATIONS**

**Count 1: Failing to Timely File Four Quarterly Lobbyist Reports for 2012**

As a lobbyist in 2012, Mr. Colbruno was required to file with the City a quarterly lobbyist report within 30 days of the end of each calendar quarter of 2012.


Mr. Colbruno filed all four quarterly lobbyist reports for 2012 on April 11, 2016.

**Count 2: Failing to Timely File a Lobbyist Registration Form and Four Quarterly Lobbyist Reports for 2014**

As a lobbyist in 2014, Mr. Colbruno was required to file with the City a lobbyist registration form by January 31, 2014, and a quarterly lobbyist report within 30 days of the end of each calendar quarter of 2014.

Mr. Colbruno failed to timely file with the City: 1) a lobbyist registration form by January 31, 2014; 2) a quarterly lobbyist report for the January 1 through March 31, 2014,
Mr. Colbruno filed a lobbyist registration form and four quarterly lobbyist reports for 2014 on April 11, 2016.

Count 3: Failing to Timely File Two Quarterly Lobbyist Reports for 2015

As a lobbyist in 2015, Mr. Colbruno was required to file with the City a quarterly lobbyist form within 30 days of the end of each the calendar quarter in 2015.

Michael Colbruno failed to timely file with the City: 1) a quarterly lobbyist report for the January 1 through March 31, 2015, reporting period by April 30, 2015, and; 2) a quarterly lobbyist report for the April 1 through June 30, 2015, reporting period by July 31, 2015, in violation of Section 3.20.110 of the LRA.

Mr. Colbruno filed both quarterly lobbyist reports for the first half of 2015 on April 11, 2016.

**PROPOSED PENALTY**

This matter consists of 11 violations of the LRA, which carries a maximum administrative penalty of $1,000 per violation and $11,000 total.

All of the counts are mitigated by the fact that Mr. Colbruno fully cooperated with Enforcement Staff’s investigation into this matter and filed all of the missing forms within days of Enforcement Staff’s request to do so. Additionally, Respondent agreed to settle this matter very early in the process.

All of the counts are aggravated by the fact that Mr. Colbruno, at the time of each of the violations, had been a lobbyist for over a decade and had timely filed lobbyist forms, and therefore was aware of his duty to timely file lobbyist forms with the City.

In Count 1, Mr. Colbruno failed to timely file four quarterly lobbyist reports for 2012. According to the reports he filed in 2016, he did a significant amount of lobbying in 2012.
In Count 2, Mr. Colbruno failed timely file a lobbyist registration form and four quarterly lobbyist reports for 2014, resulting in a complete lack of information available to the public and other parties regarding his lobbying activity for an entire year. According to the reports he filed in 2016, he did a significant amount of lobbying in 2014.

In Count 3, Mr. Colbruno failed to timely file two quarterly lobbyist reports for 2015, resulting in a lack of information available to the public and other parties regarding his lobbying activity for a six-month period. According to the reports he filed in 2016, he did a significant amount of lobbying during that six-month period.

Based on the consideration of all the relevant aggravating and mitigating circumstances of this case, Enforcement Staff recommends imposing an administrative penalty of $1,000 each for Counts 1 and 2, and $500 for Count 3, for a total administrative penalty of $2,500.

CONCLUSION

Petitioner, the Enforcement Unit of the City of Oakland Public Ethics Commission, and respondent Michael Colbruno agree as follows:

1. Respondent violated the Oakland Lobbyist Registration Act as described in the foregoing pages, which are a true and accurate summary of the facts in this matter.

2. This Stipulation will be submitted for consideration by the City of Oakland Public Ethics Commission (Commission) at its next regularly scheduled meeting;

3. This Stipulation resolves all factual and legal issues raised in this matter and represents the final resolution to this matter without the necessity of holding an administrative hearing to determine the liability of Respondent;

4. Respondent knowingly and voluntarily waives all procedural rights under the Oakland City Charter, Oakland Municipal Code, and Public Ethics Commission Complaint Procedures, including, but not limited to, the right to personally appear at an administrative hearing held in this matter, to be represented by an attorney at his own expense, to confront all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, and to have the matter judicially reviewed;
5. Respondent agrees to the issuance of the decision and order set forth below. Also, Respondent agrees to the Commission imposing an administrative penalty in the amount of $2,500. A cashier’s check from Respondent, in said amount, made payable to the “City of Oakland,” is submitted with this Stipulation as full payment of the administrative penalty, to be held by the Commission until the Commission issues its decision and order regarding this matter;

6. In the event the Commission refuses to accept this Stipulation, it shall become null and void, and within 15 business days after the Commission meeting at which the Stipulation is rejected, all payments tendered by Respondent in connection with this Stipulation will be reimbursed to him;

7. In the event the Commission rejects the Stipulation and a full evidentiary hearing before the Commission becomes necessary, none of the members of the Commission will be disqualified because of prior consideration of this Stipulation.

8. This Stipulation is not binding on any other law enforcement agency, and does not preclude the Commission or its staff from referring the matter to, cooperating with, or assisting any other government agency with regard to this matter, or any other matter related to it;

Dated:_________________  __________________________________________
Milad Dalju, Enforcement Chief of the City of Oakland
Public Ethics Commission, on behalf of Petitioner

Dated:_________________ _______________________________________
Michael Colbruno, Respondent
The foregoing stipulation of the parties “In the Matter of Michael Colbruno,” PEC Case No. 16-01, is hereby accepted as the final decision and order of the City of Oakland Public Ethics Commission, effective upon execution below by the Chair.

Dated: ____________________________

Jonathan Stein, Chair
City of Oakland Public Ethics Commission
This memorandum provides an update of the Public Ethics Commission’s (PEC or Commission) Disclosure program activities. Commission staff activities focus on improving online tools for public access to local campaign finance and other disclosure data, enhancing compliance with disclosure rules, and conducting other general PEC data and outreach efforts.

Filing Officer

Campaign disclosure – January 31 was the filing deadline for semi-annual campaign statements covering the period from July 1 through December 31, 2017. Ninety percent of the scheduled statements (45) have been filed. Staff performed facial review on a total of 81 statements and reports including both scheduled (semi-annual campaign statements) and unscheduled (amendments, statements of organization forming committees, and late contribution reports) filings. Staff required amendments from three filers for missing information.

Currently, there are five non-filers for the January 31 deadline. Three are repeat non-filers that already have open enforcement cases. After repeated outreach to the candidate and treasurer concerned to gain compliance, two additional non-filers were referred for enforcement.

In addition to regular deadline notices, Commission staff have been sending monthly advisory emails to campaign subscribers to highlight compliance issues as they arise during the campaign season. Topics covered so far include PEC publications and training opportunities for candidates, legal requirements candidates must meet before soliciting campaign funds, understanding OCRA contribution limits and restrictions, and the prohibition on using officeholder account funds for campaign purposes. Social media posts highlighted the same campaign-related themes.

In addition to the November election for City offices, Library Parcel Tax Measure D recently qualified for the June 5, 2018 Oakland ballot triggering additional filing deadlines for ballot measure and other committees spending money to influence the June election.

Meanwhile, changes to the California Political Reform Act went into effect Jan. 1, 2018, requiring organizations and individuals to file a report each time they make contributions or
independent expenditures aggregating $5,000 or more to support or oppose the qualification of a single local initiative or referendum ballot measure. The report must be filed within 10 business days of reaching the threshold in the place where the committee would be required to file campaign statements if it were primarily formed to support or oppose the measure. This change increases disclosure of spending activity attempting to influence Oakland ballot measures, such as major donors and political action committees that would have submitted their filings to jurisdictions outside Oakland in the past. Two disclosures have already been filed under the new requirement.

**Lobbyist disclosure** – January 31 was the deadline for annual lobbyist registration renewal and January 30 was the deadline for quarterly lobbyist activity reports covering the period from July 1 through December 31, 2017.

The PEC has received 108 filings (48 registrations, 3 terminations, 52 quarterly reports, and 5 amendments) since assuming filing officer duties under the Lobbyist Registration Act. Commission staff is developing processes to standardize filing officer duties as part of the Lobbyist Registration program, such as noticing deadlines, tracking non-filers, enforcement referrals and records management.

An advisory notice was sent to the lobbyist contact list announcing the 2018 LRA Guide and new public access portal for lobbyist disclosure. Information requests based on visits to the online portal indicate the success of our outreach efforts and the usefulness of the searchable online database.

**Illuminating Disclosure Data**

**FPPC Form 803 Behested Payments** – Commission staff contacted FPPC counsel for clarification regarding legal requirements for Form 803 submissions allowing staff to move forward with implementation of our online system to enter and publish filings in electronic form. Once the system is finalized, the data will upload automatically to the City’s open data portal and be available for display on the PEC’s government disclosure webpage.

**Open Disclosure** – Work on the [www.OpenDisclosure.io](http://www.OpenDisclosure.io) campaign finance app is on schedule to update the site with 2018 election data and enhanced features. Project milestones achieved over February and March include building a site capable of displaying multiple elections, design changes based on user testing to improve user experience, and adding visualizations showing contributions to candidates by contributor location.

**Open Data Day** – Commission staff hosted a PEC table at OpenOakland’s March 3rd Open Data Day event at the Oakland Main Library.

**Online Engagement and Outreach**

**Social Media** – February and March focused on raising awareness of our updated campaign finance and lobbyist guides, our upcoming training for candidates and treasurers, the addition of lobbyist disclosure to our public access portal, and sharing items related to the Commission’s public finance and campaign finance policy review. We saw positive engagement (retweets,
likes, clicks and new followers) with this content as well as information requests based on the new online tools.
This memorandum provides an update of the Public Ethics Commission’s (PEC or Commission) education and outreach efforts as staff continues to develop and expand the Commission’s ethics training and outreach program under the Government Ethics Act. PEC education/outreach program staff has been working on a variety of activities that include the following:

**Campaign Reform Act Education**

Staff continues to assist and provide resources to candidates filing to run in the 2018 election. Since January 1, 10 prospective candidates have come in to the PEC office and received a candidate resource binder that includes a PEC created campaign checklist, the FPPC’s campaign manual for local elections, FAQ on campaign-related activity, and the PEC’s Oakland Campaign Reform Act Guide. Staff explains the content of the binder with each candidate and has implemented a front-desk customer experience that has been well received by candidates. Staff will continue communications with candidates during the election cycle to ensure compliance with local campaign finance laws.

All prospective candidates are also informed of the upcoming candidate and treasurer training on April 19. To date, 11 candidates have signed up to attend the training. The training will include a presentation by the FPPC on state rules and staff will provide attendees with an overview of Oakland-specific campaign rules.

**Ethics Education**

On March 15, the Education/Outreach subcommittee met to discuss current work and 2018 goals for the education and engagement programs. The subcommittee asked questions of staff and provided input on education and outreach activities, discussed aligning the PEC roadshow with the Commission’s campaign reform project, and expanding on the reporting of Commission staff progress on Commission goals.
Staff is currently working with the Office of the City Clerk to identify all current board and commission members for phase II of the new online training. The initial roll-out was to employees only. To date, 177 employees who are in decision-making positions (designated Form 700 filers) have taken the training out of approximately 1,000 employees identified by the Office of the City Clerk. Since there is no mandatory requirement to take the training, staff is working with the Department of Human Resources Management on a quarterly basis to assess and obtain training completion by remaining employees. To increase access to training and overcome technical glitches, staff is also working to make the online training available on the Commission’s website.

Website Updates

Staff continues work to restructure and enhance learning elements on the PEC website to help users quickly find information about laws under the PEC’s jurisdiction and to provide easy access to educational information in an easy to understand format. Staff is currently building new ethics education pages and content to the existing website and continues to work with Digital Services to coordinate transition of content to the City’s new website platform.

Advice and Assistance

Commission staff continues to receive and track various advice requests received by phone and email. As of the date of this memorandum, staff has responded to roughly 53 requests for information and advice in 2018, primarily in regards to provisions of the Government Ethics and Oakland Campaign Reform Acts.
TO: Public Ethics Commission  
FROM: Milad Dalju, Deputy Director  
DATE: March 23, 2018  
RE: Enforcement Program Update

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Summary of Cases

As of March 23, 2018, the Commission has 35 open enforcement cases, each in various stages: 26 are being investigated, six are being mediated, one is set for an administrative hearing, and two are being presented to the Commission at its April 2, 2018, meeting. Additionally, three complaints are pending a decision by the Commission regarding alleged Sunshine Ordinance violations involving the Commission.

Since the last Enforcement Program Update on January 24, 2018, the following status changes occurred:

1. Case No. 14-09; In the Matter of Oakland Police Department: Staff closed this case pursuant to the Commission’s decision on February 5, 2018.

2. Case No. 14-10; In the Matter of Kaplan for Oakland City Council 2012, Kaplan for Oakland Mayor 2014, and Safe Streets and Local Jobs: Staff completed its investigation, and the investigation summary and recommendation is pending Commission review.

3. Case No. 15-06; In the Matter of Marc Weinstein: Staff closed this case pursuant to the Commission’s decision on February 5, 2018.

4. Case No. 16-01; In the Matter of Michael Colbruno: Staff completed its investigation, and the investigation summary and recommendation is pending Commission review.

5. Complaint No. 17-13; Staff completed its preliminary review of the allegations and dismissed the complaint because the allegations did not constitute a violation. (Attachment 1)

6. Complaint No. 18-04; Staff received this complaint on February 2, 2018, and is conducting a preliminary review of the allegations.
7. Complaint No. 18-05; Staff received this complaint on February 2, 2018, and is conducting a preliminary review of the allegations.

8. Complaint No. 18-06; Staff received this complaint on February 13, 2018, and is conducting a preliminary review of the allegations.

9. Complaint No. 18-07; Staff received this complaint on February 15, 2018, and is conducting a preliminary review of the allegations.

10. Complaint No. 18-09; Staff received this complaint on February 26, 2018, and is conducting a preliminary review of the allegations.

11. Complaint No. 18-10; Staff received this complaint on March 13, 2018, and is conducting a preliminary review of the allegations.

In the Matter of Lynette Gibson McElhaney; Case No. 15-07

Pursuant to the Commission’s decision and instructions at the July 31, 2017, meeting, Staff is preparing for an administrative hearing and continuing its efforts to reach a settlement agreement with Councilmember McElhaney.

The administrative hearing is set for May 7 and 8, 2018, at the California Office of Administrative Hearings’ Oakland Office.

Current Enforcement Priorities

Staff continues to prioritize cases based on the following priority factors: 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. As a result, investigations into allegations of violations of the Government Ethics Act and the Campaign Reform Act, for which the Commission has its greatest penalty authority, are prioritized ahead of all others. Sunshine-related complaints, for which the Commission has no penalty authority, take last priority behind complaints related to the Oakland Campaign Reform Act, the Government Ethics Act, and the Lobbyist Registration Act.
February 13, 2018

Gene Hazzard

Re: PEC Complaint No. 17-13; Dismissal Letter

Dear Mr. Hazzard:

On June 14, 2017, the City of Oakland Public Ethics Commission (PEC) received your complaint alleging that City Administrator Sabrina Landreth violated Section 2.20.120, subdivision (C), of the Oakland Sunshine Ordinance by participating in the City’s employment negotiations with Anne Kirkpatrick for the Chief of Police position in 2016. After reviewing the Complaint, we have determined that the allegation does not constitute a violation of the Oakland Sunshine Ordinance and are therefore dismissing the Complaint.

Section 2.20.120, subdivision (C), of the Oakland Sunshine Ordinance prohibits a local body from discussing, during closed session, compensation or other contractual matters with an employee that has a direct interest in the outcome of the negotiations.

The Oakland Sunshine Ordinance defines “local body” as:

1. The Oakland City Council, the Oakland Redevelopment Agency, and the Board of Port Commissioners;
2. Any board, commission, task force or committee which is established by City Charter, chapter or by motion or resolution of the City Council, the Oakland Redevelopment Agency or the Board of Port Commissioners;
3. Any advisory board, commission or task force created and appointed by the Mayor and which exists for longer than a 12 month period; and
4. Any standing committee of any body specified in subsections (1)(2) or (3).

On January 26, 2017, the City Council’s Rules and Legislation Committee (Rules Committee) considered a recommendation by City Administrator Landreth to pass a resolution authorizing her and the Mayor to execute an employment agreement with Ms. Kirkpatrick for the role of Chief of Police (City Administrator Recommendation). The proposed resolution included a specific salary to offer Ms. Kirkpatrick for the Chief of Police position and an increase in the Salary Schedule of the City Administrator “to ensure compaction issues do not occur.” The Rules Committee scheduled the City Administrator Recommendation to be considered by the full
City Council at its February 7, 2017, meeting. According to the Rules Committee’s agenda and minutes, it did not consider or discuss the matter during the closed session it held that day.

At its February 7, 2017, meeting, the City Council approved the City Administrator Recommendation for second and final reading at the City Council’s February 21, 2017, meeting. According to the City Council’s agenda and minutes, it did not consider or discuss the matter during the closed session it held that day.

At its February 21, 2017, meeting, the City Council rescheduled considering the City Administrator Recommendation. According to the City Council’s agenda and minutes, it did not consider or discuss the matter during the closed session it held that day.

At its March 7, 2017, meeting, the City Council adopted the City Administrator Recommendation. According to the City Council’s agenda and minutes, it did not consider or discuss the matter during the closed session it held that day.

Section 2.20.120, subdivision (C), of the Oakland Sunshine Ordinance prohibits the City Council, and its subcommittees, from discussing, during closed session, compensation or other contractual matters with an employee that has a direct interest in the outcome of the negotiations. However, as described above, a review of the City Council’s meeting agendas and minutes indicate that the City Council did not consider the City Administrator Recommendation in closed session.

In addition, Section 2.20.120, subdivision (C), of the Oakland Sunshine Ordinance only applies to the actions of local bodies. Since the City Administrator is not a local body, it does not prohibit her from participating in salary negotiations, regardless of whether she has a direct interest in the outcome of the negotiations. Therefore, City Administrator Landreth did not violate Section 2.20.120, subdivision (C), of the Oakland Sunshine Ordinance by participating in the City’s salary negotiations with Ms. Kirkpatrick.

Because City Administrator Landreth’s alleged conduct does not constitute a violation of the Oakland Sunshine Ordinance, and there is no evidence that suggests that the City Council may have violated the Oakland Sunshine Ordinance, we are dismissing your complaint pursuant to the PEC’s Complaint Procedures. The PEC’s Complaint Procedures is available on the PEC’s website.

Thank you for bringing this matter to our attention. If you have any questions regarding this matter, please feel free to contact me.

Sincerely,

Milad Dalju
Deputy Director/Chief of Enforcement

cc: Sabrina Landreth, City Administrator
This memorandum provides an overview of the Public Ethics Commission’s (PEC or Commission) programs and activities for 2017-18 as well as significant activities since the Commission’s last regular meeting that are not otherwise covered by staff program reports. Attached is an overview of current projects and priorities for each program area.

On February 23, 2018, Simón Bryce was sworn in as the Commission’s newest member, appointed by City Attorney Barbara Parker. Staff conducted an orientation covering the Commission’s laws, staffing and programs, as well as Sunshine and Due Process training.

Special thanks to Commissioner Nishioka for hosting delegates from the Independent National Electoral Commission, which was established by the 1999 Constitution of the Federal Republic of Nigeria to, among other things, organize elections into various political offices in the country. Nigerian delegates came to Oakland City Hall on March 8, 2018, to learn about the mission, authorities, structure, and activities of the Public Ethics Commission.

Upcoming Event – On Saturday, April 21, 2018, Oakland’s civic hacker brigade OpenOakland is hosting its annual CityCamp Oakland 2018. CityCamp is a one-day event for Oakland city government, civic tech enthusiasts, residents, and others to work on projects to enhance City life and government. Lead Analyst Suzanne Doran has been invited to speak about our PEC work and Open Disclosure partnership, as well as our current campaign finance and citizen participation project. All Commissioners and Oakland residents are encouraged to join in the opening plenary sessions and breakout “unconference” style workshops. The event is free and lunch will be provided. RSVP for the event at www.bit.ly/CityCamp2018.

Lastly, Emily Dong, a senior at American Indian Public High School in Oakland, will be volunteering for the Commission a few hours each week beginning on March 27. Ms. Dong is interested in learning about the Commission, and she will create a presentation/curriculum for her class about the Commission’s role in City government. She has a variety of experience volunteering as web developer, tutor, gardener, and librarian assistant, and she has worked on Measure N (college prep) curriculum development, climate change and social justice issues.

Attachment: Commission Programs and Priorities
<table>
<thead>
<tr>
<th>Program</th>
<th>Goal</th>
<th>Desired Outcome</th>
<th>Key Projects for 2018-19</th>
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<tbody>
<tr>
<td>Lead/</td>
<td>PEC facilitates changes in City policies, laws, systems, and technology and leads by example to ensure fairness, openness, honesty, integrity and innovation.</td>
<td>Effective campaign finance, ethics, and transparency policies, procedures, and systems are in place across City agencies</td>
<td>1. Adoption of PEC-drafted City Ticket Distribution policy and process changes</td>
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<td>Collaborate (Policy, Systems,</td>
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<td>2. Campaign Finance/Public Financing Act Project to expand participation in the campaign process</td>
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<td>Culture)</td>
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<td>3. Partner with OpenOakland on small projects</td>
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<td>Educate/Advise</td>
<td>Oakland public servants, candidates for office, lobbyists, and City contractors understand and comply with City campaign finance, ethics, and transparency laws.</td>
<td>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.</td>
<td>1. Online ethics training for Form 700 filers – ensure training delivered to a) staff/officials, b) board/commission members, and c) consultants</td>
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<td>Outreach/Engage</td>
<td>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.</td>
<td>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.</td>
<td>2. Candidate education – 2018 Election (Jan binder, in-person orientation, April FPPC training, etc.)</td>
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<td>Disclose/Illuminate</td>
<td>PEC website and disclosure tools are user-friendly, accurate, up-to-date, and commonly used to view government integrity data.</td>
<td>Citizens can easily access accurate, complete campaign finance and ethics-related data in a user-friendly, understandable format. Filers can easily submit campaign finance, lobbyist, and ethics-related disclosure information.</td>
<td>3. Public Financing for candidates 2018 (outreach, training/assistance, maximize use of funds, etc.)</td>
</tr>
<tr>
<td>Detect/Deter</td>
<td>PEC staff proactively detects potential violations and efficiently investigates</td>
<td>Public servants, candidates, lobbyists, and City contractors</td>
<td>4. Ongoing: ethics orientation for new employees, supervisor academy, and PEC newsletter</td>
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<td>5. Education materials for people doing business with the City</td>
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<td>6. Web-based ethics materials, html Ethics Training</td>
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<td>1. 2018 Candidate outreach promoting educational resources and compliance with deadlines/reporting requirements</td>
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<td>2. Sustain/enhance social media outreach</td>
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<td>3. PEC Roadshow – focus on CF project outreach (Commissioners)</td>
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<td>4. PEC website upgrade – expand online education materials</td>
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<td>5. Establish Communications Plan</td>
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<td>complaints of non-compliance with laws within the PEC’s jurisdiction.</td>
<td>are motivated to comply with the laws within the PEC’s jurisdiction.</td>
<td>3. Track investigation steps (commencement/completion)</td>
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<td><strong>Prosecute</strong></td>
<td>Enforcement is swift, fair, consistent, and effective.</td>
<td>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.</td>
<td>1. Case completions with varying outcomes: dismissals, closure, streamline fines, mainline fines, PC finding/set administrative hearing 2. Address complaints against the PEC 3. Create manual for Sunshine Complaint Mediation, recruit law clerk 4. Amend Complaint Procedures, update Penalty Guidelines 5. Resolve all 2014 and 2015 cases 6. Ensure completion of all complaint and case data</td>
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<tr>
<td><strong>Administration/Management</strong></td>
<td>PEC staff collects and uses performance data to guide improvements to program activities, motivate staff, and share progress toward PEC goals.</td>
<td>PEC staff model a culture of accountability, transparency, innovation, and performance management.</td>
<td>1. Publish performance goals and data on PEC website – dashboards 2. Review data to adjust activities throughout the year 3. Ongoing: professional development and staff reviews 4. Staff to create position manuals to establish continuity</td>
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