

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Teleconference
Monday, August 3, 2020
6:30 p.m.



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

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

City Attorney Staff: Trish Shafie, Deputy City Attorney

PUBLIC ETHICS COMMISSION (PEC or COMMISSION) MEETING

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

- **Television:** KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99, locate City of Oakland KTOP – Channel 10
- **Livestream online:** Go to the City of Oakland’s KTOP livestream page here: <https://www.oaklandca.gov/services/ktop-tv10-program-schedule> click on “View”
- **Online video teleconference:** Click on the link below to join the webinar: <https://us02web.zoom.us/j/88171471481?pwd=ODIQVFFUeVRsZUtHdFU3YU5XcHVadz09>
Password: 674732
 - To comment by online video conference, click the “Raise Your Hand” button to request to speak when Public Comment is being taken on an eligible agenda item. You will then be unmuted, during your turn, and allowed to participate in public comment. After the allotted time, you will then be re-muted. Instructions on how to “Raise Your Hand” is available at: <https://support.zoom.us/hc/en-us/articles/205566129> - Raise-Hand-In-Webinar.
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US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592
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- 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. July 6, 2020 Regular Meeting Minutes ([Meeting Minutes](#))
 - b. July 16, 2020 Special Meeting Minutes ([Meeting Minutes](#))
5. **Election of Vice-Chair of the Commission.** With the departure of Vice-Chair Nayeli Maxson-Velázquez from the Commission in July, the Commission will need to elect a new Vice-Chair for the remainder of 2020. Any Commissioner may nominate a Commissioner for the Vice-Chair position. If more than one Commissioner is nominated, each nominee may speak regarding their qualifications and interest in serving and may answer questions of Commissioners or the public. The Commission may discuss and vote to elect the new Vice-Chair. ([PEC Operations Policies](#))
6. **Sunshine Ordinance Laws and Policies During COVID-19.** Deputy City Attorney Trish Shafie will provide an overview of the open meetings provisions that are suspended and those that are still in place during the COVID-19 shelter-in-place order. Commissioners will review and discuss the current status of these laws and may explore potential actions to promote better operational alignment with both the spirit and letter of Oakland's open meetings laws. ([Oakland Sunshine Ordinance](#); [City Administrator's Executive Order Rescinding Sunshine](#); [Governor's Executive Orders on CA Brown Act During COVID-19](#); [City Council Resolution 88113, adopted in 2020](#); [City Council Resolution 84385, adopted in 2013](#))

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7. **In the Matter of Oakland City Councilmember Loren Taylor (Case No. M2020-06).** On February 20, 2020, the Commission received a request for mediation from the Requestor alleging that the Office of City Councilmember Loren Taylor failed to provide responsive documents to a public records request. The Requester initiated their respective public records request on October 16, 2019, seeking copies of all email communications to or from Councilmember Taylor regarding the proposed Howard Terminal Ballpark; the department did not provide a response for more than six months. Staff initiated the Mediation process and contacted Councilmember Taylor's office. On July 17, 2020, Councilmember Taylor's Chief of Staff uploaded responsive documents and closed the public records request. Staff recommends that the Commission close the mediation without further action. ([Mediation Summary](#))

DISCUSSION ITEMS

8. **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

9. **Limited Public Financing Program 2020.** Commission staff provides an overview of upcoming activities planned to implement the Limited Public Financing Program for the 2020 election. ([Staff Memorandum](#))
10. **Commissioner Recruitment.** The Commission is recruiting to fill two Commission-appointed vacancies that will occur in September 2020, and January 2021, respectively. A second vacancy to occur in January 2021 will be subject to appointment by the City Attorney. Attached is the announcement and application that is being distributed widely via the Commission's website, email distribution lists, social media, and other channels. ([Recruitment Flyer](#); [Commissioner Vacancy Announcement](#); [Commissioner Application](#))

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11. **Disclosure and Engagement.** Lead Analyst Suzanne Doran provides a report of recent education, outreach, disclosure and data illumination activities. ([Disclosure Report](#))
12. **Enforcement Program.** Enforcement Chief Kellie Johnson reports on the Commission's enforcement work since the last regular Commission meeting. ([Enforcement Report](#))
13. **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.



7/24/2020

Approved for Distribution

Date



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Quý vị cần một thông dịch viên Ngôn ngữ Ký hiệu Mỹ (American Sign Language, ASL), tiếng Quảng Đông, tiếng Quan Thoại hay tiếng Tây Ban Nha hoặc bất kỳ sự hỗ trợ nào khác để tham gia hay không? Xin vui lòng gửi email đến địa chỉ alarafranco@oaklandca.gov hoặc gọi đến số (510) 238-3593 hoặc 711 (với Dịch vụ Tiếp âm) trước đó năm ngày.

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



DRAFT

Commissioners: James E.T. Jackson (Chair), Nayeli Maxson-Velázquez (Vice-Chair), Jill M. Butler, 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 6:35 p.m.

Members present: Commissioners Jackson, Maxson-Velázquez, Butler, MacDonald, Ramachandran, and Yan.

Absent: Tuman

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

City Attorney Staff: Trish Shafie

2. Staff and Commission Announcements.

Commissioner Maxson-Velázquez announced this would be her last meeting since she is moving out of Oakland.

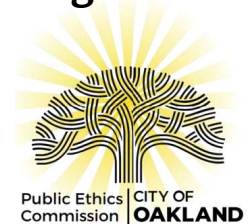
Whitney Barazoto, Executive Director, announced the projected timeline for recruiting new commissioners for the open vacancy.

There were two public speakers.

3. Open Forum.

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There were no public speakers.

ACTION ITEMS

4. Approval of Commission Meeting Draft Minutes.

a. May 4, 2020 Regular Meeting Minutes

MacDonald moved, and Ramachandran seconded to adopt the minutes as amended.

Vote: Passed 5-0

Ayes: Jackson, Maxson-Velázquez, MacDonald, Ramachandran, Yan

Noes: None

Abstain: Butler

Absent: Tuman

5. Lobbyist Registration Online Filing System Demonstration.

Suzanne Doran, Lead Analyst, provided a live demonstration of the PEC's new online filing system for Oakland lobbyists that was created in partnership with the City's Department of Information Technology.

Butler congratulated the team on this project.

There were no public speakers.

The item was accepted as an information item.

6. Campaign Statement Electronic Filing Process.

Ms. Doran provided an overview of changes being made to the campaign filing process to simplify electronic filing and streamline in-person contact in light of the COVID-19 pandemic and beyond.

There were no public speakers.

Maxson-Velázquez moved, and MacDonald seconded to approve the changes.

Vote: Passed 6-0

Ayes: Jackson, Maxson-Velázquez, Butler, MacDonald, Ramachandran, Yan

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Noes: None
Absent: Tuman

7. In the Matter of Dorian Gray; (Case No. 18-03).

Kellie Johnson, Chief Enforcement, presented the matter and recommended that the PEC approve the No Contest Stipulation and impose an \$8,000 penalty as part of a global settlement in coordination with the Alameda County District Attorney's Office.

Commissioners had several questions about the case.

There was one public speaker.

Ramachandran moved, and Butler seconded to approve the stipulation.

Vote: Passed 6-0

Ayes: Jackson, Maxson-Velázquez, Butler, MacDonald, Ramachandran, Yan

Noes: None

Absent: Tuman

8. In the Matter of The City of Oakland Police Department, (Case No. 16-15).

Ms. Johnson recommended that the Commission close this matter without further action.

There was one public speaker.

MacDonald moved, and Maxson-Velázquez seconded to close the mediation.

Vote: Passed 6-0

Ayes: Jackson, Maxson-Velázquez, Butler, MacDonald, Ramachandran, Yan

Noes: None

Absent: Tuman

9. In the Matter of the City of Oakland Department of Building and Planning (Case No. M2019-17).

Ms. Johnson recommended this mediation be closed and that Enforcement Staff will open a formal investigation of possible violations of the California Public Records Act and the Oakland Sunshine Ordinance.

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There was one public speaker: Alexis Schroeder, the complainant, shared her support for the closure of the mediation and opening of an investigation.

Yan moved, and Maxson-Velázquez seconded to accept the recommendation.

Vote: Passed 6-0

Ayes: Jackson, Maxson-Velázquez, Butler, MacDonald, Ramachandran, Yan

Noes: None

Absent: Tuman

DISCUSSION ITEMS

10. Reports on Subcommittees and Commissioner Assignments.

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

MacDonald shared that the ad hoc committee met on June 17, 2020 via Zoom teleconference. The ad hoc committee will meet again on July 8, 2020.

INFORMATION ITEMS

11. Disclosure and Engagement.

Ms. Doran provided a report of recent education, outreach, disclosure and data illumination activities. There were no public speakers.

12. Enforcement Program.

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

There was one public speaker.

13. Executive Director’s Report.

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

Meeting Minutes

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There was one public speaker.

The meeting adjourned at 9:03 p.m.

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6:30 p.m.



DRAFT

Commissioners: James E.T. Jackson (Chair), Nayeli Maxson Velázquez (Vice-Chair), Jill M. Butler, 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 SPECIAL 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, Maxson Velázquez, Butler, MacDonald, Ramachandran, and Yan.

Absent: Tuman

Staff present: Whitney Barazoto, Suzanne Doran, and Kellie Johnson

City Attorney Staff: Trish Shafie

2. Open Forum.

There were no public speakers.

ACTION ITEMS

3. Campaign Public Financing Project Report.

Commission staff and Vice-Chair Nayeli Maxson Velázquez presented a report of findings regarding Oakland's existing public financing system for Commission review and potential approval. This project began as a subcommittee project in 2017 to review how the City could redesign its campaign finance laws to expand community

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participation and equity in the campaign process to counter the influence of big money in politics.

Whitney Barazoto, Executive Director, presented the report and suggested several edits to the report based on feedback received from the public and commissioners. Vice-Chair Maxson-Velázquez highlighted certain sections of the report and articulated her overall support for the report findings and recommendations. Commissioners discussed the report.

There were two public speakers.

Ramachandran moved, and Maxson-Velázquez seconded to accept the report with the amendments suggested by Ms. Barazoto.

Vote: Passed 6-0

Ayes: Jackson, Maxson-Velázquez, Butler, MacDonald, Ramachandran, Yan

Noes: None

Absent: Tuman

Commissioner Maxson-Velázquez shared that this would be her last meeting and thanked the Commissioners and staff for all their work.

The meeting adjourned at 7:45 p.m.



**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

OPERATIONS POLICIES
Effective January 1, 2016

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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.

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

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.

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.

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.

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.

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;

- 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.

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

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.

Chapter 2.20 - PUBLIC MEETINGS AND PUBLIC RECORDS

Sections:

Article I. - In General

2.20.010 - Findings and purpose.

The Oakland City Council finds and declares:

- A. A government's duty is to serve the public and in reaching its decisions to accommodate those who wish to obtain information about or participate in the process.
- B. Commissions, boards, councils, advisory bodies and other agencies of the city exist to conduct the people's business. This chapter is intended to assure that their deliberations and that the city's operations are open to the public.
- C. This chapter is intended in part to clarify and supplement the Ralph M. Brown Act and the California Public Records Act to assure that the people of the city of Oakland can be fully informed and thereby retain control over the instruments of local government in their city.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.1, 1997)

2.20.020 - Citation.

This chapter may be cited as the Oakland Sunshine Ordinance.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.2, 1997)

Article II. - Public Access to Meetings

2.20.030 - Definitions.

Words or phrases in this chapter shall be defined pursuant to the Ralph M. Brown Act, Government Code Section 54950 et seq. and the Public Records Act, Government Section 6250 et seq., unless otherwise specified as follows:

- A. "Agenda" means the agenda of a local body which has scheduled the meeting. The agenda shall meet the requirements of Government Code Section 54954.2, except that the timing requirements of this chapter shall control. For closed sessions, the agenda shall meet the requirements set forth in Government Code Section 54954.5. The agenda shall contain a brief, general description of each item of business to be transacted or discussed during the meeting and shall avoid the use of abbreviations or acronyms not in common usage and terms whose meaning is not known to the general public. The agenda may refer to explanatory documents, including but not limited to, correspondence or reports, in the agenda-related material. A description of an item on the agenda is adequate if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item.
- B. "Agenda-related materials" means the agenda, all reports, correspondence and any other document prepared and forwarded by staff to any local body, and other documents forwarded to the local body, which provide background information or recommendations concerning the subject matter of any agenda item. Notwithstanding the foregoing, agenda related materials shall not include:

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1. The written text or visual aids for any oral presentation so long as such text or aids are not substituted for, or submitted in lieu of, a written report that would otherwise be required to meet the filing deadlines of this chapter; and
 2. Written amendments or recommendations from a member of a local body pertaining to an item contained in agenda related materials previously filed pursuant to Section 2.20.070 or Section 2.20.080.
- C. "Agenda subscriber" means any person or organization who requests in writing, on an annual basis, the receipt of an agenda or agenda-related materials as specified in Section 2.20.090 of this chapter.
- D. "City" means the city of Oakland.
- E. "Local body" means:
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 twelve (12) month period; and,
 4. Any standing committee of any body specified in subsections (E)(1)(2) or (3).

"Local body" shall not mean any congregation or gathering which consists solely of employees of the city of Oakland, the Oakland Redevelopment Agency, or the Port of Oakland.

- F. "Meeting" shall mean any congregation of a majority of the members of a local body at the same time and location, including teleconference location as permitted by Government Code Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the local body.
1. A majority of the members of a local body shall not, outside a meeting defined in this subsection F., use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the local body.
 2. Subsection F.1. shall not be construed as preventing an employee or official of a local agency, from engaging in separate conversations or communications outside of a meeting defined in this subsection F. with members of a local body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, if that person does not communicate to members of the local body the comments or position of any other member or members of the local body.
 3. Nothing in this subsection F. shall impose the requirements of this chapter upon any of the following:
 - a. Individual contacts or conversations between a member of a local body and any other person that do not violate subsections F.1. and 2.;
 - b. The attendance of a majority of the members of a local body a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the local body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance;

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- c. The attendance of a majority of the members of a local body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the local body of the local agency;
- d. The attendance of a majority of the members of a local body at an open and noticed meeting of another local body of the local agency or at an open and noticed meeting of a legislative body of another local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the local body of the local agency;
- e. The attendance of a majority of the members of a local body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the local body of the local agency; or
- f. The attendance of a majority of the members of a local body at an open and noticed meeting of a standing committee of that body, provided that the members of the local body who are not members of the standing committee attend only as observers.

"Meeting" shall also mean a meal or social gathering of a majority of the members of a local body immediately before, during or after a meeting of a local body.

- G. "Notice" means the posting of an agenda in a location that is freely accessible to the public twenty-four (24) hours a day and as additionally specified in Section 2.20.070 and 2.20.080.
- H. "On-line" means accessible by computer without charge to the user.
- I. "Software or hardware impairment" means the city is unable to utilize computer software, hardware and/or network services to produce agendas, agenda related material or to post agendas on-line due to inoperability of software or hardware caused by the introduction of a malicious program (including, but not limited to, a computer virus), electrical outage affecting the city's computer network, or unanticipated system or equipment failure. "Software or hardware impairment" may also include situations when the city is unable to access the internet due to required or necessary maintenance or the installation of system upgrades that necessitate deactivating the system network; however, the city shall make reasonable efforts to avoid a delay in the preparation, distribution, or posting of agendas and agenda related material as a result of required or necessary maintenance or installation of system upgrades.
- J. "Standing committee" means any number of members of a local body which totals less than a quorum and which has a continuing subject matter jurisdiction or a meeting schedule fixed by charter, ordinance, resolution or formal action of the local body.

(Ord. No. 12909, § 3, 1-6-2009; Ord. 12668 § 3, 2005; Ord. 12483 (part), 2003; Ord. 11957 § 00.3, 1997)

2.20.040 - Conduct of meetings for additional bodies covered by the chapter.

- A. To the extent not inconsistent with state or federal law, a local body shall require, as a condition of any express delegation of power to any public agency, including joint powers authorities, or other person(s), whether such delegation of power is achieved by legislative act, contract, lease or other agreement, that any meeting by such a public agency or other person(s) at which an item concerning or subject to the delegated power is discussed or considered, shall be conducted pursuant to the Ralph M. Brown Act (Government Code Section 54950 et seq.).

- B. To the extent not inconsistent with state or federal law, a private entity that owns, operates or manages any property in which the city, Redevelopment Agency, or the Port Department has or will have an ownership interest, including a mortgage, and on which property the private entity performs a governmental function or service, shall conduct any meeting of its governing board at which an item relating to the administration of the property or the public function or service is discussed or considered subject to the following conditions:
1. Such meetings need not be formally noticed, although the time, place and nature of the gathering shall be disclosed upon inquiry by a member of the public, and any agenda actually prepared for the meeting be made available upon request;
 2. Such meetings need not be conducted in any particular location to accommodate spectators, although spectators shall be permitted to observe on a space available basis consistent with legal and practical restrictions on occupancy;
 3. Such business meetings need not provide opportunities for comment by spectators, although the governing board may, in its discretion, entertain questions or comments from spectators as may be relevant to the item considered; and,
 4. The private entity or persons may restrict the attendance of spectators only to the specific item(s) directly relating to the administration of the property or of the public function or service and, as to such specific item(s), may prohibit the attendance of spectators during the discussion or consideration of any item that would be the permitted subject of a closed session hearing under the Ralph M. Brown Act.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.4, 1997)

2.20.050 - Meetings to be open and public: Application of Brown Act.

All meetings of local bodies specified in Sections 2.20.030(E) and Section 2.20.040(A) shall be open and public, to the same extent as if that body were governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et seq.) unless greater public access is required by this chapter, in which case this chapter shall be applicable.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.5, 1997)

2.20.060 - Conduct of business: Time and place for meetings.

- A. Every local body specified in Section 2.20.030(E) shall establish by formal action the time and place for holding regular meetings and shall conduct such regular meetings in accordance with such resolution or formal action. Whenever reasonably possible local bodies specified in Section 2.20.030(E)(1) and (2) shall conduct their regular meetings on weekday evenings.
- B. Regular and special meetings of legislative bodies specified in Section 2.20.030(E) shall be held within the city of Oakland except to do any of the following:
1. Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local body is a party;
 2. Inspect real or personal property which cannot be conveniently brought to Oakland, provided that the topic of the meeting is limited to items directly related to the real or personal property;
 3. Participate in meetings or discussions of multi-agency significance that are outside Oakland. However, any meeting or discussion held pursuant to this subsection shall take place within the jurisdiction of one of the participating agencies and be noticed by the respective local body specified in this chapter; or

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4. Meet outside the city of Oakland with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the city of Oakland, the Oakland Redevelopment Agency or the Port of Oakland, and over which issue the other federal or state agency has jurisdiction.
- C. If a regular meeting for any local body falls on a holiday, the meeting shall be held on the next scheduled regular meeting day unless otherwise noticed as a special meeting for which notice is given at least five days in advance.
- D. If, because of fire, flood, earthquake or other emergency, it would be unsafe to meet in the customary location, the meetings may be held for the duration of the emergency at some other place specified by the presiding officer of the local body or his or her designee. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to media organizations who have requested written notice of meetings.
- E. No local body shall take any action at a meeting which occurs when a quorum of the local body becomes present at a meeting of a standing or ad hoc committee of the local body, although the committee may take action consistent with its jurisdiction and authority.

(Ord. 12483 (part), 2003; Ord. 12463 § 2, 2003; Ord. 11957 § 00.6, 1997)

2.20.070 - Notice and agenda requirements: Special meetings.

- A. Special meetings of any local body may be called at any time by the presiding officer thereof or by a majority of the members thereof. All local bodies calling a special meeting shall provide notice by:
 1. Posting a copy of the agenda in a location freely accessible to the public at least forty-eight (48) hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda;
 2. Filing a copy of the agenda and copies of all agenda-related material in the Office of the City Clerk at least forty-eight (48) hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda; and,
 3. Delivering a copy of the agenda to each member of the local body, to each local newspaper of general circulation, to each agenda subscriber, and to each media organization which has previously requested notice in writing, so that a copy of the agenda is received at least forty-eight (48) hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda. Receipt of the agenda shall be presumed upon reasonable proof that delivery was made.
- B. Local bodies specified in Section 2.20.030 (E)(1) shall, in addition to the noticing requirements of this section, post a copy of the agenda for any special meeting on-line at the local body's website at least forty-eight (48) hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda. Failure to timely post a copy of the agenda online because of software or hardware impairment, as defined in Section 2.20.030, shall not constitute a defect in the notice for a special meeting if the local body complies with all other posting and noticing requirements.
- C. Notwithstanding the requirements of 2.20.070(A) and (B), if a special meeting is called for a Monday, notice shall be deemed timely made if the filing, posting and distribution requirements of subsections (A) and (B) are made no later than 12:00 p.m. (noon) on the preceding Friday.
- D. No business other than that set forth in the agenda shall be considered at a special meeting. Each special meeting shall be held at the regular meeting place of the local body except that the local body may designate an alternative meeting location provided that such alternative location is specified in the agenda and that notice pursuant to this section is given at least ten days prior to the special meeting. This ten day notice requirement shall not apply if the alternative location is within the same building at which regular meetings of the local body occur.

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- E. To the extent practicable, the presiding officer or the majority of members of any local body may cancel a special meeting by delivering notice of cancellation in the same manner and to the same persons as required for the notice of such meeting.
- F. Special meetings may not be noticed on the same day as a previously scheduled regular meeting that was not noticed in compliance with this chapter if the special meeting is called to consider any of the items that were included in the notice for such regular meeting.

(Ord. 12668 § 4, 2005; Ord. 12483 (part), 2003; Ord. 12463 § 3, 2003; Ord. 12106, 1999; Ord. 11957 § 00.7, 1997)

2.20.080 - Notice and agenda requirements: Regular meetings.

- A. Ten Day Advance Notice Requirement for Regular Meetings of the City Council, Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission, and Their Standing Committees. The City Council, Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission, and any of their standing committees shall provide notice before any regular meeting by:
 - 1. Posting a copy of the agenda in a location freely accessible to the public twenty-four (24) hours a day no later than ten days before the date of the meeting;
 - 2. Filing a copy of the agenda and all agenda-related material with the Office of the City Clerk and the Oakland main library no later than ten days before the date of the meeting; and,
 - 3. Posting a copy of the agenda on-line at the local body's website no later than ten days before the date of the meeting. Notwithstanding Section 2.20.080(D), the failure to timely post a copy of the agenda online because of software or hardware impairment, as defined in Section 2.20.030, shall not constitute a defect in the notice for a regular meeting, if the local body complies with all other posting and noticing requirements.
- B. Supplemental Agenda and Related Materials Requirements for Regular Meetings of the City Council Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission, and Their Standing Committees. Notwithstanding the notice provisions of 2.20.080(A), the City Council, Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission, and any of their standing committees, may amend or supplement a posted agenda or agenda-related materials no later than seventy-two (72) hours before a regular meeting and only for the following reasons or under the following conditions:
 - 1. To add an item due to an emergency or urgency, provided the local body makes the same findings as required by Section 2.20.080(E) before taking action;
 - 2. To delete or withdraw any item from a posted agenda; however, nothing herein shall limit the ability of a local body to delete or withdraw an item during the meeting as long as the local body permits members of the public to address the deleted or withdrawn item;
 - 3. To provide additional information to supplement the agenda-related material previously filed with the Office of the City Clerk provided that the additional information was not known to the Mayor or staff or considered to be relevant at the time the agenda-related materials were filed. Examples of supplemental material permitted by this section are reports responding to questions or requests raised by members of a local body after posting and filing of the ten day agenda and materials, and analyses or opinions of the item by the Office of the City Attorney, City Auditor, or any member of the City Council;
 - 4. To correct errors or omissions, or to change a stated financial amount, or to clarify or conform the agenda title to accurately reflect the nature of the action to be taken on the agenda item;
 - 5. To consider the recommendations, referrals, minutes, modifications of or actions taken on any item heard by a standing committee of the City Council, Redevelopment Agency, Board of Port Commissioners, and Public Ethics Commission provided that the item has not been materially changed after the committee considered the item;

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6. To place an ordinance on the agenda pursuant to Oakland City Charter Section 216 because the Mayor has caused its reconsideration by the City Council under the Mayor's power to suspend an ordinance receiving five votes; or,
 7. To place an item on the agenda to allow the Mayor to cast a vote pursuant to Oakland City Charter Section 200; or
 8. To continue an agenda item to the next regular meeting of the local body so long as members of the public are given an opportunity to address the local body on the item at the meeting from which the item is continued.
- C. Seventy-two (72) Hour Advance Notice Requirement for Regular Meetings of All Local Bodies Other Than the City Council, Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission, and Their Standing Committees. Any local body specified in Section 2.20.030(E)(2), (3), and (4), with the exception of standing committees of the City Council, Redevelopment Agency, Board of Port Commissioners, and Public Ethics Commission, shall provide notice for any regular meeting in compliance with the Ralph M. Brown Act and shall also file a copy of the agenda and all agenda-related material with the Office of the City Clerk at least seventy-two (72) hours before the time of any regular meeting.
- D. Excuse of Sunshine Notice Requirements. If an item appears on an agenda but the local body fails to meet any of the additional notice requirements under this section, the local body may take action only if:
1. The minimum notice requirements of the Brown Act have been met; and,
 2. The local body, by a two-thirds vote of those members present, adopts a motion determining that, upon consideration of the facts and circumstances, it was not reasonably possible to meet the additional notice requirements under this section and any one of the following exists:
 - a. The need to take immediate action on the item is required to avoid a substantial adverse impact that would occur if the action were deferred to a subsequent special or regular meeting;
 - b. There is a need to take immediate action which relates to federal or state legislation or the local body's eligibility for any grant or gift; or,
 - c. The item relates to a purely ceremonial or commendatory action. Notwithstanding the provisions of this subsection, the City Council, Redevelopment Agency, Board of Port Commissioners or Public Ethics Commission may excuse, by a two-thirds vote of those members present, any of the additional notice requirements imposed by Section 2.20.080 so long as the failure to meet any additional notice requirement was due to a software or hardware impairment as defined by Section 2.220.030(I) and such additional notice requirements are satisfied no later than eight days before the date of the meeting.
- E. Action on Items Not Appearing on the Agenda. Notwithstanding subsection (D) of this section, a local body may take action on items not appearing on a posted agenda only if:
1. The matter is an emergency. Upon a determination by a majority vote of the local body that a work stoppage, crippling disaster or other activity exists which severely impairs public health, safety or both; or,
 2. The matter is urgent. Upon a determination by a two-thirds vote by the members of the local body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those present, that there is a need to take immediate action which came to the attention of the local body after the agenda was posted, and that the need to take immediate action:
 - a. Is required to avoid a substantial adverse impact that would occur if the action were deferred to a subsequent special or regular meeting;
 - b. Relates to federal or state legislation; or,

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- c. Relates to a purely ceremonial or commendatory action.
- F. Nothing in this section shall prohibit a local body from taking action to schedule items for a future meeting to which regular or special meeting notice requirements will apply, or to distribute agenda-related materials relating to items added pursuant to 2.20.080(E) before or during a meeting.
- G. Nothing in this section shall prohibit the Office of the City Attorney from conforming a document to comply with technical requirements as to form and legality.
- H. The Mayor, City Administrator and City Attorney in their capacities with the city and Redevelopment Agency must submit public agenda related materials to the City Clerk in sufficient time to meet the deadlines of this section and Section 2.20.070. However, the referenced officers may submit additional documents to the legislative body and the legislative body may accept the documents if the legislative body makes a finding by two-thirds vote of the members present that the additional information in the documents was not known to the officers or considered to be relevant by the officers at the time of the filing deadlines. Copies of such documents shall be made available to the public at the related meeting. This subsection shall not apply to the City Auditor, and the City Council may consider reports from the City Auditor that are presented to the Council after the deadlines specified in this chapter. Nothing in this section or in any other provision of this chapter shall be interpreted to require that the Mayor, City Administrator or City Attorney submit to the City Clerk any documents that are not public records.

(Ord. 12668 § 5, 2005; Ord. 12483 (part), 2003; Ord. 11957 § 00.8, 1997)

2.20.090 - Agenda-related materials as public records: Agenda subscribers.

In addition to providing access to all records which are public records pursuant to the California Public Records Act (Government Code 6250 et seq.) and this ordinance, every local body specified in Section 2.20.030(E) shall make available for immediate public inspection and copying all agendas and agenda-related materials.

- A. Every local body may charge a fee to agenda subscribers and media organizations to cover reasonable mailing costs of the agenda and agenda-related materials. Neither this section nor the California Public Records Act shall be construed to limit or delay the public's right to inspect any record required to be disclosed by that act or this ordinance.
- B. Every local body shall make available for immediate public inspection and copying all documents that have been distributed to a majority of its members. The right to immediate public inspection and copying provided in this section shall not include any material exempt from public disclosure under this ordinance or under state or federal law.
- C. All requests by agenda subscribers to receive agendas or agenda-related materials by mail shall be made in writing and delivered to the Office of the City Clerk or, in the case of the Board of Port Commissioners, to the Secretary of the Board. The City Clerk shall maintain a list of all local bodies and shall immediately forward a copy of the written request to the appropriate local body to ensure compliance with the request. Any written request shall be valid for the calendar year in which it is filed, and must be renewed after January 1 of each year.
- D. Notwithstanding any other provision of this ordinance, the failure of an agenda subscriber to timely receive the agenda or agenda-related material pursuant to this section shall not constitute grounds for invalidation of the actions of the local body taken at the meeting for which the agenda or the agenda-related material was not timely received.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.9, 1997)

2.20.100 - Agenda and oral disclosures: Closed sessions.

Oakland Sunshine Ordinance;

- A. In addition to the brief general description of agenda items to be discussed or acted upon in open session, the permissive provisions of Government Code Section 54954.5 are mandatory under this ordinance with respect to any closed session item.
- B. Any action taken without proper agenda disclosure pursuant to this section is subject to invalidation pursuant to the provisions of Government Code Section 54960.1.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.10, 1997)

2.20.110 - Statement of reasons for closed sessions.

- A. Prior to any closed session, a local body shall announce in open session the general reason or reasons for the closed session, and must cite and explain the statutory or case authority under which the session is being closed.
- B. In the case of an item added to the agenda pursuant to Government Code Section 54954.2(b) or Section 2.20.080(E) herein, the statement shall be made in open session concurrent with the findings required pursuant to that section.
- C. A local body shall re-state the reasons for closed session before convening a closed session at any meeting and as to any item that has been adjourned or continued from a prior meeting.
- D. The public shall have the right to comment on any item of closed session before the closed session convenes.
- E. Nothing in this section shall require or authorize a disclosure of information that is confidential under law.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.11, 1997)

2.20.120 - Conduct of closed session.

- A. A local body shall consider in closed session only those matters specified in the statement required in Section 2.20.110.
- B. After any initial closed session to consider the sale, lease, gift, purchase, or exchange of any property to which the city, Redevelopment Agency, or Port of Oakland has or will have an ownership or possessory interest, such local bodies shall notice for open session a discussion of the advisability of taking such an action before a final action is taken in the matter. This requirement shall not apply if the local body adopts a finding that holding an open session discussion would prejudice the local body in the proposed proceeding or transaction.
- C. With respect to any closed session discussion pertaining to employee salaries and benefits, a local body shall not discuss compensation or other contractual matters with one or more employees having a direct interest in the outcome of the negotiations.
- D. The following provisions of the Brown Act apply to the conduct of closed session by local bodies and are hereby incorporated by reference as though fully set forth herein: Government Code Sections 54956.8; 54956.9; 54957; and 54957.6.
- E. The Offices of the City Attorney, the City Clerk, and the Public Ethics Commission shall provide any person with a copy of the Brown Act or Public Records Act without charge.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.12, 1997)

2.20.130 - Disclosure of closed session discussions and actions.

Oakland Sunshine Ordinance;

- A. After every closed session, in addition to the required disclosures pursuant to Government Code Section 54957.1, a local body shall reconvene into open session prior to adjournment and shall disclose publicly all portions of its discussion which are not confidential. The local body may, by motion and vote in open session, elect to disclose any other information which a majority deems to be in the public interest. Any disclosure pursuant to this section shall be made through the presiding officer or such other person, present in the closed session, designated to convey the information.
- B. Immediately following the closed session a local body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:
 - 1. Real property negotiations: Approval of an agreement concerning real estate negotiations pursuant to Government Code Section 54956.8 shall be reported as soon as the agreement is final. If its own approval renders the agreement final, the local body shall report that approval, the substance of the agreement and the vote thereon in open session immediately. If final approval requires action from another party to the negotiations, the local body shall disclose the fact of its approval, the substance of the agreement and the body's vote or votes thereon upon inquiry by any person, and, in any event, at the next meeting of said local body after the other party or its agent has informed the local body of its action. If notwithstanding the final approval there are conditions precedent to the final consummation of the transaction, or if there are multiple contiguous or closely located properties that are being considered for transfer, the report specified in this section need not be made until the condition has been satisfied or an agreement has been reached with respect to all the properties, or both.
 - 2. Litigation: Direction or approval given to the local body's legal counsel to prosecute, defend, seek or refrain from seeking appellate review or relief, or to otherwise enter as a party, intervenor or amicus curiae in any form of litigation as the result of a consultation under Government Code Section 54956.9 shall be reported in open session as soon as given, or at the first meeting after an adverse party has been served in the matter if immediate disclosure of the local body's intentions would not be contrary to the public interest. The report shall identify the names and capacities of all parties to the litigation, the court of jurisdiction and case number, the type of case, any existing claim or order to be defended against, or any factual circumstances or contractual dispute giving rise to the litigation.
 - 3. Settlement: If a local body accepts a settlement offer signed by an opposing party, the local body shall report its vote of approval and identify the substance of the agreement. If final approval rests with another part or with the court, the local body shall disclose its vote of approval and the substance of the agreement to any person upon inquiry as soon as the settlement becomes final, but in no case later than the next meeting following final approval of settlement. A local body shall neither solicit nor agree to any term in a settlement agreement which would preclude the release, upon request, of the text of the settlement agreement itself and any related documentation communicated to or received from the adverse party or parties. Where the disclosure of documents in settled litigation could affect litigation on a closely related case, the report, settlement agreement and any documents described in this section need not be disclosed until the closely related case is settled or otherwise finally concluded.
- C. Reports required to be made pursuant to this section may be made orally or in writing. Copies of any contracts, settlement agreements, or other documents related to the items or transactions that were finally approved or adopted in closed session and which contain the information required to be disclosed under this section shall be made available for inspection and copying, upon request, at the time the report is made or after any substantive amendments have been retyped into the document.
- D. A written summary of the information required to be reported immediately pursuant to this section, or documents containing that information, shall be made available for inspection and copying by the close of business on the next business day following the meeting. Written notice that such a written summary or supporting documentation is available as to every reported document shall be posted the next business day following the meeting in the place where the meeting agendas of the local body are usually posted.

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- E. Action taken in closed session which is not immediately disclosable under this section shall be disclosed and noticed under the procedures set forth in Section 2.20.130(D) at such time as disclosure is required.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.13, 1997)

2.20.140 - Barriers to attendance prohibited.

- A. No local body specified in this ordinance shall conduct any meeting, conference or other function in any facility which is inaccessible to persons with physical disabilities, or where members of the public may not be present without making a payment or purchase. Whenever a local body anticipates that the number of persons attending the meeting may exceed the legal capacity of the room, a public address system shall be used to permit the overflow audience to listen to the proceedings, unless the speakers would disrupt the operation of a local agency office.
- B. Any person attending an open meeting of a local body shall have the right to record, photograph or broadcast the proceedings unless such activities constitute a persistent disruption of the proceedings.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.14, 1997)

2.20.150 - Public testimony at regular and special meetings.

- A. Every agenda for every regular or special meeting shall provide an opportunity for members of the public to directly address a local body on items of interest to the public that are within the local body's subject matter jurisdiction, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Government Code Section 54954.2(b). The agenda of local bodies need not provide an opportunity for members of the public to address the local body on any item that has already been considered by a committee, composed exclusively of members of the local body, at a meeting in which members of the public were afforded the opportunity to address the committee before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the local body.
- B. Every agenda for regular or special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item before taking action. The presiding officer of any local body may request speakers representing similar views to designate a spokesperson in the interest of time. Nothing shall prohibit a local body from adopting rules for allocating additional time to a speaker who desires to speak on multiple agenda items so that the speaker shall address all items at one time before the local body's consideration of those items.
- C. Every local body shall adopt a rule providing that each person wishing to speak on an item shall be permitted to speak once based upon previously adopted time constraints which are reasonable and uniformly applied. It shall be the policy of the city that all speakers be entitled to a minimum of two minutes of speaking time per agenda item, subject to the discretion of the presiding officer of the local body. The presiding officer shall announce publicly all reasons justifying any reduction in speaker time. The stated reasons shall be based at least on a consideration of the time allocated or anticipated for the meeting, the number and complexity of agenda items, and the number of persons wishing to address the local body.
- D. No local body shall abridge or prohibit public criticism of the policies, procedures, programs or services of the local body or agency, or of any other aspect of its proposals or activities, or of the acts or omissions of the local body, even if the criticism implicates the performance of one or more public employees. Nothing in this subsection shall confer any privilege or protection beyond that which is otherwise provided by law.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.15, 1997)

2.20.160 - Minutes and recordings.

- A. All local bodies specified in Section 2.20.030(E)(1) and (2) and their standing committees shall record the minutes for each regular and special meeting convened under the provisions of this ordinance. At a minimum, the minutes shall state the time the meeting was called to order, the names of the members attending the meeting, a one-sentence summary of, and the roll call vote on, each matter considered at the meeting, the time the local body began and ended any closed session, those members of the public who spoke on each matter if the speakers identified themselves, and the time the meeting was adjourned. The draft minutes of each meeting shall be available for inspection and copying upon request no later than ten business days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than five business days after the meeting at which the minutes are adopted.
- B. Every local body specified in Section 2.20.030(E)(1) shall make a visual and audio recording of every open meeting. Local bodies specified in Section 2.20.030(E)(2) and (4) shall audio tape each regular and special open meeting and may make a visual recording of any meeting. Any recording of any open meeting shall be a public record subject to inspection and copying and shall not be erased, deleted or destroyed for at least four years, provided that if during that four-year period a written request for inspection or copying of any recording is made, the recording shall not be erased, deleted or destroyed until the requested inspection or copying has been accomplished. Inspection of any such recording shall be provided without charge on a player or computer made available by the local body. Notwithstanding any other provision of law, every local body specified in Section 2.20.030(E)(1) shall permanently maintain all recordings of all meetings.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.16, 1997)

2.20.170 - Public comment by members of local bodies.

Every member of a local body retains the rights of any citizen to comment publicly on the wisdom or propriety of government actions, including those of the local body of which he or she is a member. Local bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials to express their judgments or opinions, including those judgments or opinions pertaining to the disclosure or non-disclosure of discussions or actions taken in closed session. The release of specific factual information made confidential by state or federal law, including, but not limited to, privileged attorney-client communications, other than by the procedures set forth under state law or this ordinance, may constitute grounds for censure or for an action for injunctive or declaratory relief by the local body. Nothing in this section shall confer any privilege or protection for expression beyond that which is otherwise provided by law.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.17, 1997)

Article III. - Public Information

2.20.180 - Definitions.

Whenever in this Article the following words or phrases are used, they shall mean:

- A. "Agency" means an agency of the city of Oakland.
- B. "Department" means a department of the city of Oakland or a department of the Port Department of the city of Oakland.

- C. "Public information" means the content of "public records" as defined in the California Public Records Act (Government Code Section 6250 et seq.) whether contained in public records or in oral communications.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.18, 1997)

2.20.190 - Release of documentary public information.

Release of public records by a local body or by any agency or department, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act (Government Code Section 6250 et seq.) in any particulars not addressed by this Article. The provisions of Government Code Section 6253.9 are incorporated herein by reference.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.19, 1997)

2.20.200 - Release of oral public information.

Release of oral public information shall be accomplished as follows:

- A. Every Agency director for the city and Redevelopment Agency, and department head for the Port shall designate a person or persons knowledgeable about the affairs of the respective agency or department, to facilitate the inspection and copying of public records and to provide oral public information about agency or department operations, plans, policies, and positions. The name of every person so designated under this section shall be filed with the City Clerk and posted online.
- B. It shall be the duty of every designated person or persons to provide information on a timely and responsive basis to those members of the public who are not requesting information from a specific person. It shall also be the duty of the person or persons so designated to assist members of the public in identifying those public records they wish to obtain pursuant to Government Code Section 6253.1. This section shall not be interpreted to curtail existing informal contacts between employees and members of the public when these contacts are occasional, acceptable to the employee and the department, not disruptive of his or her operational duties and confined to accurate information not confidential by law.
- C. Public employees shall not be discouraged from or disciplined for the expression of their personal opinions on any matter of public concern while not on duty, so long as the opinion is not represented as that of the agency or department and does not materially misrepresent the agency or department position. Nothing in this section shall be construed to provide rights to public employees beyond those recognized by law or agreement, or to create any new private cause of action or defense to disciplinary action.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.21, 1997)

2.20.210 - Public review file—Policy body communications.

Every local body specified in Section 2.20.030(E)(1) shall maintain a communications file, organized chronologically and accessible to any person during normal business hours, containing a copy of any letter, memorandum or other writing which the clerk or secretary of such local body has distributed to, or sent on behalf of, a quorum of the local body concerning a matter that has been placed on the local body's agenda within the previous thirty (30) days or is scheduled or requested to be placed on the agenda within the next thirty (30) days. Excepted from the communications file shall be commercial solicitations, agenda and agenda-related material, periodical publications or communications exempt from disclosure under the California Public Records Act or this chapter. Multiple-page reports, studies or analyses which are accompanied by a letter or memorandum of transmittal need not be included in the

communications file provided that the letter or memorandum of transmittal is included in the communications file.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.22, 1997)

2.20.220 - Non-exempt public information.

Notwithstanding any right or duty to withhold certain information under the California Public Records Act or other law, the following shall govern specific types of requests for documents and information:

- A. Drafts and Memoranda. No completed preliminary drafts or memoranda shall be exempt from disclosure under Government Code Section 6254(a) if said completed preliminary draft or memorandum has been retained in the ordinary course of business or pursuant to law or agency or department policy. Completed preliminary drafts and memoranda concerning contracts, memoranda of understanding or other matters subject to negotiation and pending a local body's approval need not be subject to disclosure until final action has been taken.
- B. Litigation Material. Unless otherwise privileged or made confidential by law, records of all communications between a local body's representatives and the adverse party shall be subject to public inspection and copying, including the text and terms of any settlement agreement, once the pending litigation has been settled or finally adjudicated.
- C. Personnel Information. None of the following shall be exempt from disclosure under Government Code Section 6254(c):
 1. Job pool information, to the extent such information is compiled for reporting purposes and does not permit the identification of any particular individual. Such job pool information may include the following:
 - a. Sex, age and ethnic group;
 - b. Years of graduate and undergraduate study, degree(s) and major or discipline;
 - c. Years of employment in the private and/or public sector;
 - d. Whether currently employed in the same position for another public agency;
 - e. Other non-identifying particulars as to experience, credentials, aptitudes, training or education entered in or attached to a standard employment application form used for the position in question.
 2. The professional biography or curriculum vitae of every employee who has provided such information to the city, Redevelopment Agency or the Board of Port Commissioners excluding the home address, home telephone number, social security number, date of birth, and marital status of the employee.
 3. The job description of every employment classification.
 4. The exact gross salary and paid benefits available to every public employee.
 5. Any adopted memorandum of understanding between the city or Board of Port Commissioners and a recognized employee organization.
- D. Law Enforcement Information. The Oakland Police Services Agency shall cooperate with all members of the public making requests for law enforcement records and documents under the California Public Records Act or other applicable law. Records and documents exempt from disclosure under the California Records Act pertaining to any investigation, arrest or other law enforcement activity shall be disclosed to the public to the full extent permitted by law after the District Attorney or court determines that a prosecution will not be sought against the subject involved or the statute of limitations for filing charges has expired, whichever occurs first. Information may be redacted from such records and documents and withheld if, based upon the

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particular facts, the public interest in nondisclosure clearly outweighs the public interest in disclosure. Such redacted information may include:

- a. The names of juvenile witnesses or suspects;
 - b. Personal or otherwise private information related or unrelated to the investigation if disclosure would constitute an unwarranted invasion of privacy;
 - c. The identity of a confidential source;
 - d. Secret investigative techniques or procedures;
 - e. Information whose disclosure would endanger law enforcement personnel, a witness, or party to the investigation; or
 - f. Information whose disclosure would endanger the successful completion of an investigation where the prospect of enforcement proceedings is likely.
2. The Oakland Police Services Agency shall maintain a record, which shall be a public record and which shall be separate from the personnel records of the agency, which reports the number of citizen complaints against law enforcement agencies or officers, the number and types of cases in which discipline is imposed and the nature of the discipline imposed. This record shall be maintained in a format which assures that the names and other identifying information of individual officers involved is not disclosed directly or indirectly.
- E. Contracts, Bids and Proposals. Contracts, contract bids, responses to requests for proposals and all other records of communications between the city, Redevelopment Agency and Board of Port Commissioners and individuals or business entities seeking contracts shall be open to inspection and copying following the contract award or acceptance of a contract offer. Nothing in this provision requires the disclosure of a person's net worth or other proprietary financial information submitted for qualification for a contract until and unless that person is awarded the contract. All bidders and contractors shall be advised that information covered by this subdivision will be made available to the public upon request.
- F. Budgets and Other Financial Information. The following shall not be exempt from disclosure:
1. Any proposed or adopted budget for the city, Redevelopment Agency and the Port Department, including any of their respective agencies, departments, programs, projects or other categories, which have been submitted to a majority of the members of the City Council, Redevelopment Agency or Board of Port Commissioners or their standing committees.
 2. All bills, claims, invoices, vouchers or other records of payment obligations, as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is made, other than payments for social or other services whose records are confidential by law.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.23, 1997)

2.20.230 - Immediate disclosure request.

- A. Notwithstanding any other provision of law and subject to the requirements of this section, a written request to inspect or obtain copies of public records that is submitted to any department or agency or to any local body shall be satisfied no later than three business days unless the requestor is advised within three business days that additional time is needed to determine whether:
1. The request seeks disclosable public records or information;
 2. The requested records are in the possession of the agency, department or local body;

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3. The requested records are stored in a location outside of the agency, department or local body processing the request;
 4. The requested records likely comprise a voluminous amount of separate and distinct writings;
 5. Reasonably involves another agency, department or other local or state agency that has a substantial subject matter interest in the requested records and which must be consulted in connection with the request; or,
 6. There is a need to compile data, to write programming language or a computer program or to construct a computer report to extract data.
- B. All determinations made pursuant to Section 2.20.230(A)(1)-(6) shall be communicated in writing to the requestor within seven days of the date of the request. In no event shall any disclosable records be provided for inspection or copying any later than fourteen (14) days after the written determination pursuant to 2.20.230(A)(1)-(6) is communicated to the requestor. Additional time shall not be permitted to delay a routine or readily answerable request. All written requests to inspect or copy documents within three business days must state the words "Immediate Disclosure Request" across the top of the first page of the request and on any envelope in which the request is transmitted. The written request shall also contain a telephone number, email or facsimile number whereby the requestor may be contacted. The provisions of Government Code Section 6253 shall apply to any written request that fails to state "Immediate Disclosure Request" and a number by which the requestor may be contacted.
- C. An Immediate Disclosure Request is applicable only to those public records which have been previously distributed to the public, such as past meeting agendas and agenda-related materials. All Immediate Disclosure Requests shall describe the records sought in focused and specific language so they can be readily identified.
- D. The person seeking the information need not state a reason for making the request or the use to which the information will be put.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.24, 1997)

2.20.240 - Minimum withholding.

No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure by law. Any redacted, deleted or segregated information shall be keyed by footnote or other clear reference to the appropriate justification for withholding. Such redaction, deletion or segregation shall be done personally by the attorney or other staff member conducting the exemption review.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.25, 1997)

2.20.250 - Justification for withholding.

Any withholding of information shall be justified, in writing, as follows:

- A. A withholding under a permissive exemption in the California Public Records Act or this ordinance shall cite the legal authority and, where the exemption is based on the public interest in favor of not disclosing, explain in practical terms how the public interest would be harmed by disclosure.
- B. A withholding on the basis that disclosure is prohibited by law shall cite the applicable legal authority.
- C. A withholding on the basis that disclosure would incur civil or criminal liability shall cite any statutory or case law supporting that position.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.26, 1997)

2.20.260 - Fees for duplication.

- A. No fee shall be charged for making public records available for inspection.
- B. No fee shall be charged for a single copy of a current meeting agenda.
- C. A fee may be charged for: 1) single or multiple copies of past meeting agenda or any agenda-related materials; 2) multiple copies of a current meeting agenda; and, 3) any other public record copied in response to a specific request.
- D. The agency, department or the city may, rather than making the copies itself, contract at market rate to have a commercial copier produce the duplicates and charge the cost directly to the requester.
- E. No charge shall be made for a single copy of a Draft or Final Environmental Impact Report and Environmental Impact Statement.
- F. All fees permitted under this section shall be determined and specified in the city of Oakland Master Fee Schedule, as amended.
- G. Nothing in this section shall be interpreted as intending to preempt any fee set by or in compliance with State law.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.27, 1997)

Article IV. - Policy Implementation

2.20.270 - City of Oakland Public Ethics Commission.

- A. Duties: In the implementation of this ordinance, the Public Ethics Commission shall:
 - 1. Advise the City Council and the Board of Port Commissioners and provide information to other city departments and local bodies on appropriate ways in which to implement this ordinance with a priority on simple, standard procedures.
 - 2. Assist in citywide training for implementing the ordinance.
 - 3. Develop and maintain an administrative process for review and enforcement of this ordinance, among which may include the use of mediation to resolve disputes arising under this ordinance. No such administrative review process shall preclude, delay or in any way limit a person's remedies under the Brown Act or Public Records Act.
 - 4. Propose amendments to the City Council of this ordinance as needed.
 - 5. Report to the City Council on any practical or policy problems encountered in the administration of this chapter.
- B. Enforcement.
 - 1. Upon the conclusion of the administrative review process, as implemented pursuant to subsection (A)(3) herein, any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce his or her rights under this chapter.
 - 2. A court may award costs and reasonable attorneys' fees to the plaintiff in an action brought pursuant to this section where it is found that a local body has violated this ordinance. The costs and fees shall be paid by the local body and shall not become a personal liability of any public officer or employee of the local body.

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3. If the litigation is judged to be frivolous by the court, the defendant local body may assert its right to be paid reasonable court costs and attorneys' fees.

C. Mediation.

1. Notwithstanding any other provision of law, any person whose request to inspect or copy public records has been denied by any local body, agency or department, may demand immediate mediation of his or her request with the Executive Director of the Public Ethics Commission, or some mutually agreed person who agrees to volunteer his or her time, serving as mediator.
2. Mediation shall commence no later than ten days after the request for mediation is made, unless the mediator determines the deadline to be impracticable. The local body, agency or department shall designate a representative to participate in the mediation. Nothing shall prevent the parties from mediating any dispute by telephone.
3. The mediator shall attempt to resolve the dispute to the mutual satisfaction of the parties. The mediator's recommendations shall not be binding on any party. All statements made during mediation shall not be used or considered for any purpose in any subsequent or related proceeding.

D. Cure and Correction.

1. Nothing in this ordinance shall prevent a local body from curing or correcting an action challenged on grounds that a local body violated any material provision of this chapter. A local body shall cure and correct an action by placing the challenged action on a subsequent meeting agenda for separate determinations of whether to cure and correct the challenged action and, if so, whether to affirm or supersede the challenged action after first taking any new public testimony.
2. In the event the Public Ethics Commission, upon the conclusion of a formal hearing conducted pursuant to its General Complaint Procedures, determines that a local body violated any material provision of this chapter, or took action upon an item for which the agenda related material was not timely filed pursuant to Section 2.20.080(H), the local body shall agendaize for immediate determination whether to correct and cure the violation. Any violation shall have no effect on those actions described in Government Code Section 54960.1(d)(1)-(4), inclusive.

E. Reports or Recommendations From Meetings Alleged To Have Been Held In Violation of this Chapter.

If the sole purpose or nature of an action that is challenged for violation of this chapter is to make or convey an advisory report or recommendation to another local body, such local body shall not be precluded from hearing or taking action on the item if it is within the authority or jurisdiction for said local body to hear or take action on the item in the absence of such report or recommendation.

F. Limitation of Actions.

No person may file a complaint with the Public Ethics Commission alleging violation of the notice provisions of Section 2.20.080 if he or she attended the meeting or had actual notice of the item of business at least seventy-two (72) hours prior to the meeting at which the action was taken. No person may file a complaint with the Public Ethics Commission alleging violation of the notice provisions of Section 2.20.070 if he or she attended the meeting or had actual notice of the item at least forty-eight (48) hours prior to the meeting at which the action was taken. No person may file a complaint with the Public Ethics Commission alleging the failure to permit the timely inspection or copying of a public record unless he or she has requested and participated in mediation as specified in Section 2.20.270(C).

(Ord. 12668 § 6, 2005; Ord. 12483 (part), 2003; Ord. 11957 § 00.28, 1997)

2.20.280 - Responsibility for administration.

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- A. The City Manager shall administer and coordinate the implementation of the provisions of this chapter for all local bodies, agencies and departments under his or her authority, responsibility or control.
- B. The City Manager shall provide the Public Ethics Commission with staff to permit the Public Ethics Commission to fulfill the functions and duties set forth herein. The City Attorney shall provide the Public Ethics Commission with legal assistance, to the extent such assistance does not constitute a conflict.
- C. The Office of the City Clerk shall be responsible for timely posting all agendas and shall make available for immediate public inspection and copying all agendas and agenda-related material filed with it. The Office of the City Clerk shall retain copies of agenda-related materials filed with it by local bodies specified in Section 2.20.030(E)(2)(3) and (4) for a period of at least sixty (60) days following the meeting for which said agenda-related materials were submitted.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.29, 1997)

2.20.290 - Severability.

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.30, 1997)

2.20.300 - Effective date.

The amendments herein shall become effective on May 1, 2003.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.31, 1997)

City Administrator's Executive Order Rescinding Sunshine;

RECEIVED MAR 23 2020

Approved as to Form and Legality



Office of the City Attorney

Emergency Order of the City of Oakland Interim City Administrator/Director of the Emergency Operations Center

Whereas, due to the spread of COVID-19 (coronavirus) within the state, on March 1, 2020 the Alameda County Public Health Department, and on March 4, 2020, Governor Gavin Newsom, declared local and state public health emergencies due to the spread of COVID-19 locally and within the state, pursuant to Health & Safety Code section 101080 and Government Code section 8625, respectively; and

Whereas, on March 12, 2020, Governor Newsom pursuant to his authority under Government Code section 8630, issued Executive Order N-25-50, which waived several Brown Act provisions applicable to government agency public and closed meetings conducted by teleconference; and

Whereas, on March 18, 2020 Governor Newsom, issued Executive Order N-29-20 which withdrew and superseded Executive Order N-25-20's provisions pertaining to meetings via teleconference, authorizing local legislative bodies to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and address the local legislative body when the body complies with the notice and accessibility requirements set forth in the order; and

Whereas, on March 7, 2020, the City Administrator in her capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, the City Council passed Resolution No. 88075 C.M.S. confirming the existence of the local emergency proclaimed by the City Administrator pursuant to her power under Oakland Municipal Code section 8.50.050(C) to proclaim a local emergency provided that the local emergency proclamation shall remain in effect only if the City Council confirms the existence of the emergency n within seven days; and

Whereas, the City Administrator in her/his capacity as the Director of the EOC has authority "to promulgate orders, rules, and regulations on matters reasonably related to the protection of life and property and the preservation of public peace and order, in accordance with Article 14 of the California Emergency Services Act, [and such] rules and regulations must be confirmed at the earliest practicable time by the governing body as required by law; and

Whereas, to the extent that the City's emergency proclamation and/or the Emergency Services Ordinance codified at Oakland Municipal Code Chapter 8.50.050 do not expressly or impliedly suspend or waive the following provisions of the City's laws, policies or procedures, the City Administrator in her/his capacity as the Director of the EOC hereby promulgates the following orders, rules and regulations;

Now, Therefore, I, Steven Falk, Interim City Administrator/Director of the Emergency Operations Center of the City of Oakland, in accordance with the authority vested in me pursuant to Oakland's Emergency Services Act, Oakland Municipal Code Chapter 8.50, specifically section 8.50.050.C.5.(a), hereby order the following:

City Administrator's Executive Order Rescinding Sunshine;

1. Oakland's Sunshine Ordinance codified at Oakland Municipal Code Chapter 2.20 and the Oakland City Council's Rules of Procedure, codified in Resolution No. 87044 C.M.S., passed February 6, 2018, are suspended, 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.
2. 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.
3. All time-limits, shotclocks and other deadlines associated with Planning Department and Building Department notices, application reviews, appeals, enforcement activities and other matters set forth in Titles 15 and 17 of the OMC and related administrative instructions, regulations and policies are suspended 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.
4. Meetings of all City commissions, committees and boards related to the processing of planning and building applications, including the Planning Commission, the Design Review Committee and the Landmarks Advisory Board, are cancelled until further notice.
5. All time-limits and deadlines associated with Rent Adjustment Program petitions, appeals, and other matters set forth Chapter 8.22 Article I (Residential Rent Adjustment Program) of the OMC and related administrative instructions, regulations and policies are suspended 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.
6. City of Oakland policies and procedures related to homeless encampments, including, but not limited to, the City's Encampment Management Policy and its Standard Operating Procedure for Removal of Homeless Encampments, are suspended 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 earliest. In the interim, the City shall adhere to State and Alameda County legal guidance and/or orders, policies and procedures issued in response to the COVID-19 emergency related to homeless encampments. In addition, the City Administrator is authorized to adopt interim temporary policies and/or procedures consistent with such State and Alameda County orders, policies and procedures. Such City of Oakland interim temporary policies and procedures shall protect individuals' rights while ensuring that the City and other local, state, and/or federal governments can take all legal measures needed to protect public health and observe safety orders.
7. The City of Oakland's Regulations Enforcing and Interpreting the Oakland Minimum Wage and Sick Leave Ordinance, codified in OMC Chapter 5.42, are amended as follows:

City Administrator's Executive Order Rescinding Sunshine;

- a. An Employer's request for a doctor's note or other documentation for the use of accrued paid sick leave is presumptively unreasonable; and
- b. Accrued paid sick leave may be used for self-quarantine when the Employee personally receives a recommendation or direction from a medical professional or public health official to quarantine.

The above provisions shall remain in effect 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.

8. All time-limits and deadlines associated with Oakland Animal Services notices, appeals, enforcement activities and other matters set forth in Chapters 6.04 (Animal Control Regulations Generally) and 6.08 (Potentially Dangerous and Vicious Dogs) of the OMC Title 6 (Animals) and related administrative instructions, regulations and policies are suspended 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.
9. The City Administrator hereby is authorized to approve emergency grants to non-profit and for-profit businesses to provide funding to offset and/or mitigate the financial impact of COVID-19 on business operations due to closures, shelter in place directives and other COVID-19-related events without prior approval of the City Council. This grant authority shall be 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.

In addition, the City Administrator authorizes the provision of information, data and advice to non-profit and for-profit businesses that wish to provide privately-funded grants and/or other support, services and aide to the most vulnerable City of Oakland communities and residents, and those most impacted by racial disparities during the COVID-19 crisis, provided that businesses furnished with City's information, data and advice will use it to identify and target organizations and programs for receipt of funding and other support that are serving or will serve Oakland's most vulnerable and racially impacted communities and citizens.

10. The provisions of Oakland Municipal Code section 2.06.060 providing for an interest penalty for the failure to make timely payments in accordance with Chapter 2.06 (Prompt Payment) of the Oakland Municipal Code are suspended for the duration of the local emergency or until such time as this order is rescinded, whichever is earlier.
11. Notwithstanding City Charter Section 219(6) and O.M.C. Chapters 2.41 and 2.42, the City Administrator has the administrative authority to lease facilities or property to or from private or public entities for the sole purpose of addressing the COVID-19 emergency crisis (including providing temporary shelter for unsheltered residents or to set up isolation facilities to prevent the spread of COVID-19), for any amount, at or below fair market value, without following otherwise applicable noticing or competitive bidding processes. Such leases shall terminate upon 90 days of the date the City Council terminates this local emergency unless the leases are approved in accordance with applicable procedures of the City Charter and O.M.C Chapters 2.41 and 2.42 within said 90-day window.

City Administrator's Executive Order Rescinding Sunshine;

12. The provision of Oakland Municipal Code section 8.50.050.C.3 that requires the City Council and City Administrator to review the need for a local emergency every thirty (30) days until the emergency is terminated as it is inconsistent with current state law (Gov. Code Section 8630), which requires such review every sixty (60) days, and is inconsistent with the Governor's March 1, 2020 declaration of emergency which waived the state requirement to review every sixty (60) days, therefore, is suspended.
13. The provision of Oakland Municipal Code section 8.50.050.C.5(a) that requires the confirmation of orders, rules and regulations issued by the City Administrator during a local emergency "at the earliest practicable time by the governing body as required by law", is not required by state law and, therefore, is suspended.
14. Unless otherwise specified above, all orders set forth above shall remain in effect 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.

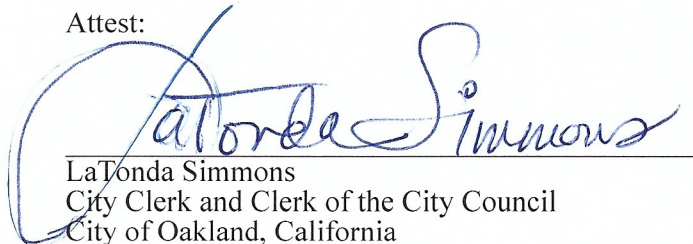
I FURTHER DIRECT that as soon hereafter as possible, this Order shall be filed in the Office of the City Clerk, posted on the City of Oakland website, and that widespread publicity and notice of this Order shall be provided to the public.

IN WITNESS WHEREOF I have hereunto set my hand this 23 day of March, 2020



Steven Falk
Interim City Administrator/Director of Emergency
Operations Center, City of Oakland, California

Attest:



LaTonda Simmons
City Clerk and Clerk of the City Council
City of Oakland, California

2916887v3
March 2020

Governor's Executive Orders on CA Brown Act During COVID-19;

EXECUTIVE DEPARTMENT STATE OF CALIFORNIA

EXECUTIVE ORDER N-25-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS despite sustained efforts, the virus remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection are needed; and

WHEREAS state and local public health officials may, as they deem necessary in the interest of public health, issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences, or other mass events, which could cause the cancellation of such gatherings through no fault or responsibility of the parties involved, thereby constituting a force majeure; and

WHEREAS the Department of Public Health is maintaining up-to-date guidance relating to COVID-19, available to the public at <http://cdph.ca.gov/covid19>; and

WHEREAS the State of California and local governments, in collaboration with the Federal government, continue sustained efforts to minimize the spread and mitigate the effects of COVID-19; and

WHEREAS there is a need to secure numerous facilities to accommodate quarantine, isolation, or medical treatment of individuals testing positive for or exposed to COVID-19; and

WHEREAS, many individuals who have developmental disabilities and receive services through regional centers funded by the Department of Developmental Services also have chronic medical conditions that make them more susceptible to serious symptoms of COVID-19, and it is critical that they continue to receive their services while also protecting their own health and the general public health; and

WHEREAS individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources such as shelters and food banks; and

WHEREAS in the interest of public health and safety, it is necessary to exercise my authority under the Emergency Services Act, specifically Government Code section 8572, to ensure adequate facilities exist to address the impacts of COVID-19; and

Governor's Executive Orders on CA Brown Act During COVID-19;

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571 and 8572, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. All residents are to heed any orders and guidance of state and local public health officials, including but not limited to the imposition of social distancing measures, to control the spread of COVID-19.
2. For the period that began January 24, 2020 through the duration of this emergency, the Employment Development Department shall have the discretion to waive the one-week waiting period in Unemployment Insurance Code section 2627(b)(1) for disability insurance applicants who are unemployed and disabled as a result of the COVID-19, and who are otherwise eligible for disability insurance benefits.
3. For the period that began January 24, 2020 through the duration of this emergency, the Employment Development Department shall have the discretion to waive the one-week waiting period in Unemployment Insurance Code section 1253(d) for unemployment insurance applicants who are unemployed as a result of the COVID-19, and who are otherwise eligible for unemployment insurance benefits.
4. Notwithstanding Health and Safety Code section 1797.172(b), during the course of this emergency, the Director of the Emergency Medical Services Authority shall have the authority to implement additions to local optional scopes of practice without first consulting with a committee of local EMS medical directors named by the EMS Medical Directors Association of California.
5. In order to quickly provide relief from interest and penalties, the provisions of the Revenue and Taxation Code that apply to the taxes and fees administered by the Department of Tax and Fee Administration, requiring the filing of a statement under penalty of perjury setting forth the facts for a claim for relief, are suspended for a period of 60 days after the date of this Order for any individuals or businesses who are unable to file a timely tax return or make a timely payment as a result of complying with a state or local public health official's imposition or recommendation of social distancing measures related to COVID-19.
6. The Franchise Tax Board, the Board of Equalization, the Department of Tax and Fee Administration, and the Office of Tax Appeals shall use their administrative powers where appropriate to provide those individuals and businesses impacted by complying with a state or local public health official's imposition or recommendation of social

Governor's Executive Orders on CA Brown Act During COVID-19;

distancing measures related to COVID-19 with the extensions for filing, payment, audits, billing, notices, assessments, claims for refund, and relief from subsequent penalties and interest.

7. The Governor's Office of Emergency Services shall ensure adequate state staffing during this emergency. Consistent with applicable federal law, work hour limitations for retired annuitants, permanent and intermittent personnel, and state management and senior supervisors, are suspended. Furthermore, reinstatement and work hour limitations in Government Code sections 21220, 21224(a), and 7522.56(b), (d), (f), and (g), and the time limitations in Government Code section 19888.1 and California Code of Regulations, title 2, sections 300-303 are suspended. The Director of the California Department of Human Resources must be notified of any individual employed pursuant to these waivers.
8. The California Health and Human Services Agency and the Office of Emergency Services shall identify, and shall otherwise be prepared to make available—including through the execution of any necessary contracts or other agreements and, if necessary, through the exercise of the State's power to commandeer property – hotels and other places of temporary residence, medical facilities, and other facilities that are suitable for use as places of temporary residence or medical facilities as necessary for quarantining, isolating, or treating individuals who test positive for COVID-19 or who have had a high-risk exposure and are thought to be in the incubation period.
9. The certification and licensure requirements of California Code of Regulations, Title 17, section 1079 and Business and Professions Code section 1206.5 are suspended as to all persons who meet the requirements under the Clinical Laboratory Improvement Amendments of section 353 of the Public Health Service Act for high complexity testing and who are performing analysis of samples to test for SARS-CoV-2, the virus that causes COVID-19, in any certified public health laboratory or licensed clinical laboratory.
10. To ensure that individuals with developmental disabilities continue to receive the services and supports mandated by their individual program plans threatened by disruptions caused by COVID-19, the Director of the Department of Developmental Services may issue directives waiving any provision or requirement of the Lanterman Developmental Disabilities Services Act, the California Early Intervention Services Act, and the accompanying regulations of Title 17, Division 2 of the California Code of Regulations. A directive may delegate to the regional centers any authority granted to the Department by law where the Director believes such delegation is necessary to ensure services to individuals with developmental disabilities. The Director shall describe the need justifying the waiver granted in each directive and articulate how the waiver is necessary to protect the public health or safety from the threat of COVID-19 or necessary to ensure that services to individuals with developmental disabilities are not disrupted. Any waiver granted by a directive shall expire 30 days from the date of its issuance. The Director may grant one or more 30-day extensions if the waiver continues to be necessary

Governor's Executive Orders on CA Brown Act During COVID-19;

to protect health or safety or to ensure delivery of services. The Director shall rescind a waiver once it is no longer necessary to protect public health or safety or ensure delivery of services. Any waivers and extensions granted pursuant to this paragraph shall be posted on the Department's website.

11. Notwithstanding any other provision of state or local law, including the Bagley-Keene Act or the Brown Act, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to attend and to address the local legislative body or state body, during the period in which state or local public officials impose or recommend measures to promote social distancing, including but not limited to limitations on public events. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.

In particular, any otherwise-applicable requirements that

- (i) state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- (ii) each teleconference location be accessible to the public;
- (iii) members of the public may address the body at each teleconference conference location;
- (iv) state and local bodies post agendas at all teleconference locations;
- (v) at least one member of the state body be physically present at the location specified in the notice of the meeting; and
- (vi) during teleconference meetings, a least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction

are hereby suspended, on the conditions that:

- (i) each state or local body must give advance notice of each public meeting, according to the timeframe otherwise prescribed by the Bagley-Keene Act or the Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable; and
- (ii) consistent with the notice requirement in paragraph (i), each state or local body must notice at least one publicly accessible location from which members of the public shall have the right to observe and offer public comment at the public meeting, consistent with the public's rights of access and public comment otherwise provided for by the Bagley-Keene Act and the Brown Act, as applicable (including, but not limited to, the requirement that such rights of access and public comment be made available in a manner consistent with the Americans with Disabilities Act).

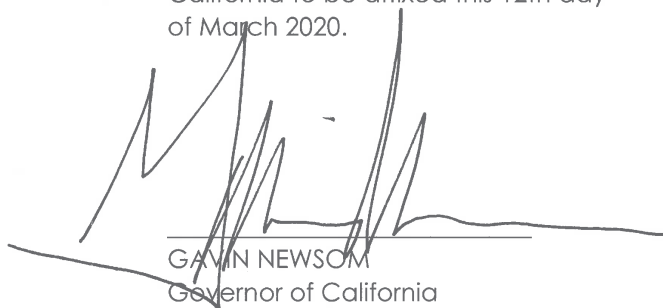
Governor's Executive Orders on CA Brown Act During COVID-19;

In addition to the mandatory conditions set forth above, all state and local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 12th day of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

Governor's Executive Orders on CA Brown Act During COVID-19;

EXECUTIVE DEPARTMENT STATE OF CALIFORNIA

EXECUTIVE ORDER N-29-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS despite sustained efforts, the virus continues to spread and is impacting nearly all sectors of California; and

WHEREAS the threat of COVID-19 has resulted in serious and ongoing economic harms, in particular to some of the most vulnerable Californians; and

WHEREAS time bound eligibility redeterminations are required for Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries to continue their benefits, in accordance with processes established by the Department of Social Services, the Department of Health Care Services, and the Federal Government; and

WHEREAS social distancing recommendations or Orders as well as a statewide imperative for critical employees to focus on health needs may prevent Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries from obtaining in-person eligibility redeterminations; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567 and 8571, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. As to individuals currently eligible for benefits under Medi-Cal, CalFresh, CalWORKs, the Cash Assistance Program for Immigrants, the California Food Assistance Program, or In Home Supportive Services benefits, and to the extent necessary to allow such individuals to maintain eligibility for such benefits, any state law, including but not limited to California Code of Regulations, Title 22, section 50189(a) and Welfare and Institutions Code sections 18940 and 11265, that would require redetermination of such benefits is suspended for a period of 90 days from the date of this Order. This Order shall be construed to be consistent with applicable federal laws, including but not limited to Code of Federal Regulations, Title 42, section 435.912, subdivision (e), as interpreted by the Centers for Medicare and Medicaid Services (in guidance issued on January 30, 2018) to permit the extension of

Governor's Executive Orders on CA Brown Act During COVID-19;

otherwise-applicable Medicaid time limits in emergency situations.

2. Through June 17, 2020, any month or partial month in which California Work Opportunity and Responsibility to Kids (CalWORKs) aid or services are received pursuant to Welfare and Institutions Code Section 11200 et seq. shall not be counted for purposes of the 48-month time limit set forth in Welfare and Institutions Code Section 11454. Any waiver of this time limit shall not be applied if it will exceed the federal time limits set forth in Code of Federal Regulations, Title 45, section 264.1.
3. Paragraph 11 of Executive Order N-25-20 (March 12, 2020) is withdrawn and superseded by the following text:

Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth below, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.

In particular, any otherwise-applicable requirements that

- (i) state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- (ii) each teleconference location be accessible to the public;
- (iii) members of the public may address the body at each teleconference conference location;
- (iv) state and local bodies post agendas at all teleconference locations;
- (v) at least one member of the state body be physically present at the location specified in the notice of the meeting; and
- (vi) during teleconference meetings, a least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction

are hereby suspended.

A local legislative body or state body that holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements set forth below, shall have satisfied any requirement that the body allow

Governor's Executive Orders on CA Brown Act During COVID-19;

members of the public to attend the meeting and offer public comment. Such a body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

Accessibility Requirements: If a local legislative body or state body holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the body shall also:

- (i) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the Americans with Disabilities Act and resolving any doubt whatsoever in favor of accessibility; and
- (ii) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to subparagraph (ii) of the Notice Requirements below.

Notice Requirements: Except to the extent this Order expressly provides otherwise, each local legislative body and state body shall:

- (i) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by the Bagley-Keene Act or the Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable; and
- (ii) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in such means of public observation and comment, or any instance prior to the issuance of this Order in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of such means, a body may satisfy this requirement by advertising such means using "the most rapid means of communication available at the time" within the meaning of Government Code, section 54954, subdivision (e); this shall include, but need not be limited to, posting such means on the body's Internet website.

All of the foregoing provisions concerning the conduct of public meetings shall apply only during the period in which state or local public health officials have imposed or recommended social distancing measures.

Governor's Executive Orders on CA Brown Act During COVID-19;

All state and local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 17th day of March 2020.



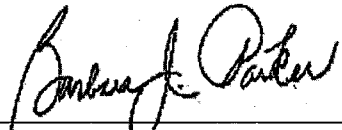
GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

**City Council Resolution 88113, adopted in 2020
UPDATED 5/7/20 FOR 5/12/20 SPECIAL MEETING**

APPROVED AS TO FORM AND LEGALITY



OFFICE OF THE CITY ATTORNEY

**OAKLAND CITY COUNCIL
RESOLUTION NO. 88113 C.M.S.**

INTRODUCED BY COUNCILMEMBERS LOREN TAYLOR AND REBECCA KAPLAN

RESOLUTION AMENDING THE COUNCIL'S RULES OF PROCEDURE CURRENTLY SET FORTH IN RESOLUTION NO. 87044 C.M.S, DURING THE PERIOD OF THE LOCAL EMERGENCY DECLARED BY THE CITY ADMINISTRATOR ON MARCH 9, 2020 AND CONFIRMED BY CITY COUNCIL RESOLUTION NO. 88075 C.M.S. ON MARCH 12, 2020, TO ESTABLISH GUIDELINES OR COUNCIL AND COUNCIL COMMITTEE MEETINGS AND REQUIREMENTS DURING THE PERIOD THAT STATE OR LOCAL PUBLIC HEALTH OFFICIALS HAVE IMPOSED OR RECOMMENDED SOCIAL DISTANCING MEASURES

WHEREAS, due to the spread of COVID-19 (coronavirus) within the state, on March 1, 2020 the Alameda County Public Health Department, and on March 4, 2020, Governor Gavin Newsom, declared local and state public health emergencies due to the spread of COVID-19 locally and within the state, pursuant to Health & Safety Code section 101080 and Government Code section 8625, respectively, and

WHEREAS, on March 9, 2020, the City Administrator in her capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, the City Council passed Resolution No. 88075 C.M.S. confirming the existence of the local emergency proclaimed by the City Administrator pursuant to her power under Oakland Municipal Code section 8.50.050(C) to proclaim a local emergency provided that the local emergency proclamation shall remain in effect only if the City Council confirms the existence of the emergency within seven days; and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N-33-20, ordering “all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors”, and further acknowledged that the “supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care”; and

City Council Resolution 88113, adopted in 2020

WHEREAS, Executive Order N-33-20 provides that, to mitigate/control the spread of COVID-1, when people need to leave their homes or places of residence to carry out specified essential functions or to facilitate necessary activities, they should at all times practice “social distancing”, which means remaining a distance of six (6) feet from other persons when in public places; and

WHEREAS, the City Administrator in his capacity as the Director of the EOC has authority “to promulgate orders, rules, and regulations on matters reasonably related to the protection of life and property and the preservation of public peace and order, in accordance with Article 14 of the California Emergency Services Act; and

WHEREAS, on March 23, 2020 pursuant to his authority as Director of the EOC, the City Administrator has issued emergency orders, including an order that suspends provisions of the Sunshine Ordinance (Oakland Municipal Code Chapter 2.20) and the Council’s Rules of Procedure Resolution No. 87044 C.M.S. for the duration of the local emergency or until such time the March 23,2020 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;” and

WHEREAS, the Governor’s Executive Order 29-20 suspended the following requirements of the Brown Act: (1) that the Council notice a physical location for its meetings, (2) that all Councilmembers participate in teleconference meetings from a location within the territorial limits of the City of Oakland; (3) that each teleconference location be noticed and accessible to the public;

WHEREAS, it is imperative that citizens practice social distancing (i.e., maintain a distance of six feet from others) in public places such as City parks, recreational areas and facilities serving those areas to avoid contracting or exposing others to COVID-19; and

WHEREAS, based on the City Administrator’s March 23, 2020 Emergency Order and Governor’s Executive Order No. 29-20 the (1) Brown Act deadlines for noticing Council and Council Committee meetings (72 hours for regular meetings and 24 hours for special meetings) are in effect for the duration of the local emergency and the Sunshine Ordinance’s noticing deadlines (10 days for regular meetings and 48 hours for special meetings excluding holidays and weekends) are suspended; (2) the entire Council and the entirety of each Council standing Committee may meet via teleconference; (3) in accord with the Brown Act, there are no deadlines for filing/submitting agenda-related materials and the Sunshine Ordinance’s deadlines for agenda-related materials are suspended; and

WHEREAS, notwithstanding that the Brown Act deadlines for noticing meetings are in effect and in accord with the Brown Act there are no deadlines for agenda-related materials, the City Council is committed to striving to provide transparency and greater notice than the Brown Act requires, and to providing the public agenda-related materials as soon as reasonably practicable for Council and Council Committee meetings; and

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WHEREAS, the Council of the City of Oakland hereby declares that the business of the City is to be conducted in an orderly and efficient manner to facilitate sound City Council and public deliberation and decision making; and

WHEREAS, the City Council hereby declares that the proper operation of democratic government requires that public officials are bound to observe, in their official acts, the highest standards of performance and to discharge faithfully the duties of their office, regardless of personal considerations. Recognizing that the public's interest must be their primary concern, their conduct in both their official and private affairs should be above reproach; and

WHEREAS, the following Rules of Procedure seek to provide for: (1) reasonable time for public input and comment on agenda items at the Committee and City Council meetings; (2) in-depth study of policy proposals, for problem-solving opportunities among staff, Council members and the public and development of policy alternatives at the committee level; (3) more focused (and fewer) City Council agenda items by limiting items to those a Committee has had the opportunity to discuss and as to which a Committee has developed recommendations; and (4) an agenda that is managed more efficiently and effectively and for predictable discussion times for debate regarding agenda items in order to avoid long waits by the public as the Council considers procedural, ceremonial and consent items (as defined herein); and

WHEREAS, in recognition of these goals, the City Council desires to establish Rules of Procedure for the Conduct of City Council Meetings and a Code of Ethics; and

WHEREAS, City Charter section 210 mandates that the Council provide by resolution for the order of business and the rules of procedure for the conduct of Council meetings; and

WHEREAS, the Brown Act (Government Code section 54950, et seq.) authorizes the Council to prescribe reasonable rules and regulations for public speakers; now therefore be it

RESOLVED: That in accordance with Section 208 of the Charter of the City of Oakland, the time and place of Council meetings is hereby determined to be the following: The Council shall meet in regular session on the first and third Tuesdays of the month, commencing at 1:30 p.m. via teleconference during the declared emergency and state and/or Alameda County social distancing orders/recommendations; Council should seek to limit meetings to no more than five (5) hours in duration unless extended by a supermajority vote of two-thirds of the members of the Council in attendance at the meeting; and upon the termination of such emergency and social distancing orders or recommendations, the Council shall meet in regular session on the first and third Tuesdays of the month, commencing at 5:30 p.m. in the Chambers of City Hall, One City Hall Plaza, 3rd Floor, Oakland, California; and meetings shall conclude no later than 12:00 midnight, unless extended by majority vote of the members of the Council in attendance at the Council meeting; and be it

FURTHER RESOLVED: That during the declared emergency and state and/or Alameda County social distancing orders or recommendations, regular Council Committee meetings shall be held once a month as follows: the Council Committees shall meet in regular session at 1:30 p.m. via teleconference, AS NEEDED, on the second and fourth Tuesdays of the month and the Mondays preceding the second and fourth Tuesdays of the month as follows: Second Tuesday of the month: Public Safety Committee/Rules and Legislation Committee (as needed for ballot measures state bills, etc.); Mondays preceding Second Tuesday: Finance & Management Committee/City-Port Liaison

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Committee, as needed; Fourth Tuesdays of the month: Community and Economic Development/Public Works, as needed; and Mondays preceding Fourth Tuesday: Life Enrichment Committee/ Education Partnership Committee, as needed; Council Committee meetings should be held as study sessions when needed for discussion and consideration of new legislation and potentially controversial items; if the Council determines that an additional Council Committee meeting is required, then the second Council Committee will be scheduled on the Monday preceding the second and/or fourth Tuesday of the month; and upon the termination of the emergency and social distancing orders or recommendations, Council Committees will resume regular meetings in the Chambers of City Hall, One City Hall Plaza on the second and fourth Tuesdays of the month, except that the Rules and Legislation Committee will resume regular meetings in Council Chambers on Thursdays 11:00 a.m.; and be it

FURTHER RESOLVED: That during the declared emergency and social distancing orders or recommendations, Committee Chairs may request that the Council schedule a special meeting to address a particular subject; and be it

FURTHER RESOLVED: That during the declared emergency and social distancing orders or recommendations, the Rules and Legislation Committee will be suspended for scheduling purposes, and the Council will include a standing agenda item on each agenda to determine the schedule and items for future Council and Council Committee meetings; provided that the Council will schedule Rules and Legislation Committee meetings as needed to consider items within the Committee's subject matter jurisdiction such ballot measures, and the regular time for such meetings will be on the Second Tuesday at 1:30 p.m.; and be it

FURTHER RESOLVED: That during the declared emergency and social distancing orders or recommendations, the City Administrator and Committee Chairs will identify information reports, and during the Council's standing scheduling item the Council will determine by motion whether to hear such reports or to request that the City Administrator provide informational reports by publicly published memoranda; if an informational memorandum requires discussion, Councilmembers may request that the subject memorandum be scheduled to a Council or Council Committee meeting during the Council's standing agenda item at its regular meetings to determine the schedule and items for future Council and Council Committee meeting ; and be it

FURTHER RESOLVED: That during the declared emergency and social distancing orders or recommendations, Rule 28 of the Council's Rules of Procedure will remain in effect as will the provisions of the Rules of Procedure that are not inconsistent with these Amendments, and a list of the items that are approved to be added or deleted via Rule 28 will be provided to the City Clerk, City Attorney, Mayor, and each Councilmember upon finalization; and be it

FURTHER RESOLVED: That during the declared emergency and social distancing orders or recommendations, the City Council will schedule special Closed Session meetings as needed on the first and third Thursdays of the month commencing at **11:30 a.m.**; and/or on the second and fourth Thursdays of the month, if needed; and be it

FURTHER RESOLVED: That during the declared emergency and social distancing orders or recommendations, for Closed and Open Council meetings, the City Clerk shall facilitate an

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electronic process for public speakers and shall provide the public with information on how to participate in meetings and appropriately address the Council, and the presiding officer may take all speaker comments on all items on the agenda at the beginning of the meeting before the Council takes action on any agenda item. For Council Committee Meetings and Boards and Commission Meetings, City Administration will administer teleconference system for the meeting and public participation; and be it

FURTHER RESOLVED: That notwithstanding that the Brown Act 72 hour noticing deadline for regular meetings and 24 hour deadline for special meetings are in effect during the declared emergency and social distancing orders or recommendations; and the fact that the Brown Act does not have deadlines for agenda-related materials, the Council will strive to provide notice and file agenda-related materials in accord with the Sunshine Ordinance's 10-day noticing deadline for regular meetings and 48 hour noticing deadline (excluding holidays and weekends) for special meetings to the extent reasonably feasible; and be it

FURTHER RESOLVED: That during the declared emergency and social distancing orders or recommendations, the establishment of agenda items for Council and Council Committee meetings be guided by the following procedures:

- a) There should be no more than two agenda items for each Committee meeting. Committees should seek to limit meetings to no longer than three (3) hours. Committee meetings should be focused on legislation needing review and input, and high-interest topics for the purpose of seeking input, consideration of proposals, and to the greatest extent possible to advance recommendations on refinement of policy proposals.
- b) Agenda reports, legislation and other agenda-related materials are due to the City Clerk no later than 2:00 p.m. on Thursday for regular or special, open session Council and Council Committee meetings scheduled for the following Monday or Tuesday. It is strongly encouraged that any accompanying PowerPoints or other presentations be included with the agenda-related materials. Supplemental agenda-related materials may be submitted to the City Clerk no later than 24 hours before a regular or special meeting.
- c) To the extent reasonably feasible persons who submit items should strive to designate no more than one person as the presenter to be included as a panelist for the meeting. Given the challenges of providing the public, Councilmembers, City Administrator, City Attorney and City Clerk amendments to legislation during teleconference meetings, Councilmembers, City Administrator and City Attorney shall (1) submit their supplemental agenda-related materials' amendments to the City Clerk no later than 24 hours before the special or regular meeting as required by item (b) above; and (2) limit their amendments/proposals during the meeting to minor, non-substantive matters and read into the record verbatim their proposed language; provided that if the foregoing is not feasible the Council may defer the item to the next Council meeting or Committee meeting for action and to allow the amendments/supplemental agenda-related materials to be placed in the agenda packet.
- d) The City Clerk shall will publish the final agenda titles for regular and special open session meetings of the Council and Council Committees no later than 72 hours prior to the scheduled meeting. Agenda titles for regular and special open session meetings of the Council and its Committees cannot be supplemented after the 72-hour deadline.

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(Please see deadlines for supplementing agenda-related materials in (b) above.)

- e) When proposing new legislation, particularly topics that are complex and expect significant public input, authors are encouraged to provide for online/teleconference town hall meeting(s) to explore and discuss policy and solicit feedback from the public, but a quorum of the Council cannot attend or participate in any town hall, nor can a quorum of standing committee having jurisdiction over the subject topic attend or participate in a town hall.
- f) The Clerk's office shall maintain and provide a pending list to track scheduling of upcoming items as presented to present to the Council for its standing scheduling item.
- g) Council meetings will include a combined "Consent" list for action items that are regular recurring, non-controversial, and/or do not involve significant feedback. New legislation that is controversial, complex, or requiring significant input shall be listed separately. When requesting scheduling, parties should indicate whether the item is non-controversial and appropriate for consent or appropriate for separate listing.
- h) Informational Reports shall be provided as publicly-published memos and will not be listed on Council or Committee agendas, unless it requires study by the full Council, is legally required, or the Council schedules the item during its discussion under the standing scheduling item for future agendas.
- i) Public speaker time shall be up to 2 minutes per speaker, unless modified by the Presiding Officer. No pre-registration is required. No ceding of time is allowed.
- j) The Council will include a standing agenda item on each agenda to schedule items for future Council and Council Committee meetings

FURTHER RESOLVED: That to the extent any provisions of these Rules of Procedure are inconsistent with the provisions applicable during the local emergency, the emergency provisions will be applicable; and the Rules of Procedure shall remain in effect except as otherwise amended by the temporary rules and procedures; and upon the termination of the local emergency and social distancing orders or recommendations, this Resolution shall be of no further force and effect and the Sunshine Ordinance and the Rules of Procedure Resolution No. 87044 that were in effect prior to the emergency shall be restored and these Amendments will sunset; and be it .

FURTHER RESOLVED: That during the declared emergency and state and/or Alameda County social distancing orders or recommendations, and in accordance with Section 210 of the Charter, the following is established as the order of business for Council meetings:

1. Roll call
2. Public Comment on Agenda Items
3. Adoption of Combined Items List (requests can be made at this time to move items here to non-combined)
4. Non-combined Action Items
5. Review of Council Pending List
6. Scheduling of Agenda Items for Council and Council Committee Meetings

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7. Report of Final Decisions Made in Closed Session by City Attorney; the City Attorney, as permitted by the Brown Act, may provide a written report of final decisions in Closed session as an alternative to an oral report in open session of final decisions.
8. Announcements/Adjournments in memory
9. Open Forum; and be it

FURTHER RESOLVED: That upon the termination of the emergency and social distancing orders or recommendations, in accordance with Section 210 of the Charter, the following is established as the order of business for Council meetings:

1. Call to Order by Council President and Pledge of Allegiance
2. Roll Call
3. Open Forum
4. Action on Special Orders/Presentations of the Day (with accompanying agenda materials as required by Sunshine Ordinance)
 - i. Ceremonial presentations, including proclamations, individual recognitions, etc.;
 - ii. Reports/presentations from the Mayor; and
 - iii. Council Acknowledgements/ Announcements
5. Approval of Council minutes
6. Modifications to the Agenda and Procedural Items, including but not limited to
 - a. Requests from Councilmembers to pull an item from consent items calendar and reschedule as non-consent calendar item on the next City Council meeting agenda.
 - b. Requests by Councilmembers to speak on a Consent Calendar Item or to register a No Vote or Abstention on an Item.
 - c. Requests by Councilmembers to change the order of the items on the Consent Calendar or the Non-Consent Calendar, or to defer items or make other modifications to the agenda.
 - d. Announcements by the Presiding Officer of changes in the order of the agenda, deletion or deferral of items or other modifications to the agenda
 - e. Motion for Members' Requests for Reconsideration of Action the Council took at Immediately Preceding Meeting (In order to make motion, Member must have voted on "prevailing side".)
 - f. Members' Requests for Scheduling of Items considered by Committee but not forwarded to Council to be scheduled to the next City Council meeting.

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7. Adoption of Consent Calendar Items (after hearing public speakers and Councilmembers)
8. Oral Report of Final Decisions in Closed Session by City Attorney and disclosure of non confidential closed session discussion pursuant to Sunshine Ordinance, Oakland Municipal Code section 2.20.130; provided that during the local emergency and social distancing recommendations or orders, the City Attorney may as permitted by the Brown Act, provide a written report of final decisions in Closed session.

Commencing at 6:30 p.m., or as soon as reasonably practicable thereafter, action on Non-Consent Calendar Items; provided that during the local emergency and social distancing recommendations or orders, the Council's regular meeting will be conducted via teleconference and shall commence at **1:30 p.m.** and there shall be no commencement time for non-consent items.

9. Consideration of items with statutory Public Hearing Requirements
10. Action on Other Non-Consent Items
11. Continuation of Open Forum (if all public speakers who signed up for open forum did not speak at open forum at the beginning of the meeting.
12. Adjournment – 12 midnight unless Council passes a motion to extend the time for the meeting; and be it

FURTHER RESOLVED: That in accordance with Section 210 of the Charter, the following are established as the Rules of Procedure for the conduct of Council meetings:

- Rule 1.** **Roberts Rules of Order Applies Except as Modified by these Rules** - The business of the Council and its standing committees shall be conducted, so far as it is practicable, in accordance with parliamentary rules as contained in Roberts Rules of Order Revised, except as modified by these rules and in accordance with state open meeting laws and local sunshine ordinance. The City Attorney, or such other person as may be designated by the presiding officer upon approval of the Council, shall serve as the official parliamentarian for meetings of the Council.
- Rule 2.** **Seating of Councilmembers, Voting Order** - When in session, the Councilmembers shall occupy assigned seats in the Council Chambers in alphabetical order according to their surnames, commencing to the left of the President of the Council, and shall vote in said alphabetical order, with the President of the Council or other presiding officer voting last, except when utilizing the automated simultaneous voting system.
- Rule 3.** **Definition of Terms:**

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- i. **Action Item** shall mean any resolution, ordinance, public hearing, motion or recommendation requiring official vote and approval of the City Council to be effective.
- ii. **Consent Item** shall mean, for the purposes of the City Council agenda, any action or informational item that a subject matter Committee has forwarded to the full Council with unanimous recommendation for approval, except any item having a high level of public interest or controversy as determined by the Rules Committee, or any action item that the Rules Committee has placed on the consent calendar, unless otherwise ineligible by law as a Consent Item.
- iii. **Non-Consent Item** shall mean, for the purposes of the City Council agenda, any action or informational item that a subject-matter Committee has forwarded to the full Council without unanimous recommendation for approval or having a high level of public interest or controversy as determined by the Rules Committee or that is otherwise ineligible by law as a Consent Item.
- iv. **Informational Item** shall mean an item of the agenda consisting only of informational report that does not require or permit Council action.
- v. **Regularly-Scheduled Meeting** shall mean a meeting occurring on a recurring basis and at a regular, established time for which all required public notice requirements for a regular meeting have been met.
- vi. **Subject Matter Standing Committees** shall mean the Community and Economic Development Committee, the Finance and Administration Committee, the Public Safety Committee, the Life Enrichment Committee, the Public Works Committee, the Rules and Legislation Committee and such other subject matter committees as the Council may establish.

Rule 4.

Standing Committees - Subject matter standing committees of the Council shall consist of the following and are entitled as follows:

Community and Economic Development
Public Works
Life Enrichment
Finance and Management
Public Safety
Rules and Legislation

The President of the Council shall appoint all committees subject to confirmation by Council resolution and provided that a majority of the members of the Council may direct the appointment of a committee by the President of the Council. Committee chairs also shall be appointed by the

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President of the Council and confirmed by City Council resolution. The Council may establish such other ad hoc or standing committees as it deems appropriate by Council resolution (e.g., City/Port Liaison Committee and the Education Partnership Committee).

This paragraph is suspended during the local emergency and social distancing orders or recommendations. With the exception of the Rules Committee, subject matter standing Council Committees shall meet on the second and fourth Tuesdays of each month. Rules shall meet weekly on Thursdays. They shall meet at the times set forth, or such other time as recommended by the Rules Committee and approved by the Council. With the exception of special meetings, all Council meetings on non-consent items shall take place in the afternoons and evenings to maximize citizen participation. Meetings of committees may be noticed as Special Meetings of the Council if a majority of the members of the Council plan to attend and participate as a part of the committee.

The standing committees of the Council are authorized and directed to ascertain, study and analyze all facts relating to any subjects or matters within their jurisdiction, or as may be assigned by the Rules Committee, and shall report to and submit recommendations to the City Council for action.

Rule 5.

Action by Subject Matter Committees -

The assigned subject matter committee shall have initial jurisdiction over any item assigned to it by the Rules Committee and may take any of the following actions with respect to the assigned item:

1. The Committee Chair shall develop with staff the schedule to hear items to be confirmed by a majority of the Committee.
2. The Committee may, by a vote of the majority of the members present, decide to postpone, continue or table an item on the agenda.
3. On any item on an agenda, the Committee Chair may allow for an informational presentation by City staff relating to the item.
4. With respect to an action item, and after discussion and consideration of the item, committee may take one of the following actions:
 - a. Vote by majority of those present to approve the recommendation of staff or the originator of the proposed action item and forward the recommendation onto the full Council. The Committee may, as a condition of approval, request additional information to be presented for consideration when the full Council hears the item.
 - b. Fail to approve any recommended action, in which case the item shall **not** be forwarded to the full City Council; provided that when the item is urgent, the Rules Committee shall have jurisdiction to place the item on the supplemental agenda for a regular City Council meeting, or on the agenda for a special Council meeting in

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- accordance with the requirements of the Sunshine Ordinance if no action was taken on the item (1) due to the cancellation of a committee meeting or (2) due to lack of a quorum, or (3) because the committee ran out of time, or (4) because the committee was not able to approve any recommended action and the Committee passes a motion by the affirmative votes of the majority of the members who are present requesting that the Rules committee schedule the item for a Council meeting. (See Rule 24(6).) Any such action will be recorded in the minutes and may be subject to consideration if pulled by a Councilmember at the appropriate Council meeting.
- c. Propose by a majority vote of those present one or more alternative recommendation(s) be forwarded to the full City Council for consideration and final action. The Committee may request additional information to be presented for consideration when the full Council hears the item.
 - d. Reject by a majority vote of those present, jurisdiction over the action item and refer the action item back to the Rules Committee with a recommendation for reassignment to another appropriate subject-matter committee.
 - e. Request, by majority vote of those present, additional, specified information from staff or the originator of the proposed action item. The action item may be continued or rescheduled for further consideration at the soonest feasible date available, allowing time for appropriate notice pursuant to the Sunshine Ordinance and Brown Act.
 - f. With respect to items that the Committee forwards to the Council pursuant to subparts a. or c., above, the Committee or the Committee chair may designate such items as Consent or Non-Consent items, provided that the Rules Committee has authority to make the final determination as Consent or Non-Consent items under Rule 24(5).
5. With respect to an informational item, following discussion and consideration, committee shall take one of the following actions:
 - a. Receive the informational report by majority vote of those present without forwarding the report to the full City Council;
 - b. Receive the informational report and forward the report onto the full City Council by majority vote of those present;
 - c. Request by motion and second more specific information from staff or the originator of the proposed informational item. The item may be continued or rescheduled for further consideration at the soonest feasible date available, allowing time for appropriate notice pursuant to the Sunshine Ordinance.
 6. Each Committee shall review the minutes of its previous meeting, make corrections to mistakes, if any, and approve the minutes by majority vote of the members present.

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Rule 6. Election of Council President; President's Powers/Duties - At the first Council meeting in January the Council shall elect the President of the Council for a two-year term by resolution. The President of the Council shall serve as the presiding officer of the City Council and shall perform the following duties:

- Chair regular and special meetings of the City Council;
- Manage the Office of the City Council and present the budget of the Office of the City Council for adoption;
- Appoint Council committee members and chairpersons of committees in accordance with Rule 4 of these Rules of Procedure;
- Except for those appointments reserved for the Mayor pursuant to the City Charter or other enabling legislation, the President of the Council shall recommend appointments to regional and local boards and agencies, as appropriate, subject to confirmation by Council resolution.

The President of the Council, subject to confirmation by Council resolution, shall designate a Councilmember(s) to serve as "President Pro tempore" for a two-year term beginning in January with each new City Council term. In the absence or unavailability of the President of the Council, the President Pro tempore shall perform the duties of the President of the Council.

Rule 7. Action and Procedures at Council Meetings

1. The regularly scheduled meetings of the City Council shall take place on the first and third Tuesdays of each month, and shall begin at 5:30p.m. All non-consent items shall be heard and discussed no earlier than 6:30 p.m. The fifth Tuesdays will be utilized for special meetings and workshops.
2. The City Council may consider and act upon those items assigned by Rules Committee directly to City Council, or approved and forwarded by a subject matter committee, or, as provided in Item 8 of this Rule, pulled at the immediately preceding Council meeting by a Councilmember for discussion, or as provided by Rules 5(4)(b) and 24(6).
3. For each action item and informational item, the agenda shall list the following:
 - a. A summary description of the item pursuant to the Brown Act and the Sunshine Ordinance;
 - b. The recommendation, alternatives and/or direction recommended by the subject matter Committee, including the voting record of Committee members on the item; and

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- c. For each action item referred directly by the Rules Committee, a brief statement of the Rules Committee's reason for referring item to Council directly without subject-matter committee consideration.
4. For each action item and informational item on the agenda, the agenda package shall include the following information:
 - a. Staff or informational reports submitted to Committee, including but not limited to:
 - i. any additional information requested to be included by the subject matter committee
 - ii. a listing of all funding sources to fund the action or recommendation being taken, an indication that no funding sources are identified, or an indication that no funding is necessary
 - iii. a list of the organization/stakeholders contacted regarding the item, if any
 - iv. information and comment on the Sustainable Economic, Environmental and Social Equity Opportunities afforded by the recommended action.
5. During "Approval of Council Minutes", the City Council shall approve the minutes of the preceding Council meeting (but not of the Committee meetings), after corrections to any errors that may have occurred during recordation of the proceedings of the meeting. The City Council shall not discuss, consider, or debate the substance of any matter recorded in the minutes, unless such items are specifically included as an Action or Information Item on the posted agenda.
6. During "Modifications to the Agenda" any Council member may request a change in the order of the agenda, which shall be changed with the consent of the presiding officer. Any Councilmember by motion that is seconded by another Councilmember, may pull a consent item from the Consent Item Calendar and place the item at the beginning of the Non-Consent Calendar of the agenda as a non-consent item, subject to the discretion of the Council President to: 1) determine the order of agenda items, and 2) to place the item later in the Non-Consent Calendar agenda, and allowing for public comment on the item to occur *either* during the consent portion *or* non-consent portion of the agenda; provided, however, that, excluding consent calendar *items* moved in the foregoing manner, the Consent Items *Calendar* may not be moved to a time later than 6:30 p.m. and no item agendized for consideration after 6:30 p.m. may be moved to a time earlier than 6:30 p.m. A Councilmember is entitled to pull a consent item from the Consent Item Calendar if another Councilmember seconds his/her motion; it is not necessary that the Council vote on or pass the motion.

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7. During “Members’ Request for Reconsideration.” Council Member who voted on the prevailing side of a motion or other action taken at the immediately preceding Council meeting may move that item for reconsideration. If the motion is seconded and at least five Council members vote in favor of the motion, the item shall be placed on the agenda for the next-succeeding City Council meeting as a “non-consent” item. This section is not intended and shall not be construed to preclude a Council member, who voted on the prevailing side of a motion or other action taken at a Council meeting, from moving for reconsideration of the item at the same meeting; nor shall this section be interpreted to preclude the Council from reconsidering the item at the same meeting if the motion to reconsider passes.
8. During “Members’ Requests for Scheduling of Items Considered by Committee but not forwarded to Council”, any Council member by motion that is seconded by another Councilmember, may place on the agenda of the next City Council meeting (subject to compliance with Sunshine Ordinance and Brown Act) any action item that has been considered in a subject matter Committee, but not forwarded by the Committee to the City Council; it is not necessary that the Council vote on or pass the motion.
9. On any action item, the City Council may, by the requisite number of votes:
 - a. Approve the Committee’s recommendation, select one of the Committee’s suggested alternatives or approve an alternative recommendation proposed at the full Council in compliance with the Brown Act and Sunshine Ordinance;
 - b. By a majority of the Council members present, continue the item to the next regular Council meeting if permitted by Sunshine Ordinance and Brown Act;
 - c. By a majority of the Council members present, refer the item to any subject-matter Committee for reconsideration; or
 - d. With respect to an item that the Rules Committee referred directly to Council, the Council may take any action subject to the Brown Action and the Sunshine Ordinance.
10. On any agendized informational report, the City council may receive the report either by oral presentation by staff or as written.

Rule 8.

Protocol at Council Meetings - Every member of the Council, before speaking, shall address the presiding officer, and no member shall speak except while seated at or standing in the immediate vicinity of, his or her desk. When items on the agenda relate to a specific Council District, the presiding officer shall recognize the Council representative of the District first, and the

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Councilmember-at-Large secondly, prior to recognizing other Councilmembers.

- Rule 9.** **Announcements by Councilmembers** - Each member of the Council shall have the right to make brief announcements via the City operated station, KTOP, or at the appropriate time on the agenda, without a previous motion, upon matters which are Council sponsored or relate to the welfare and condition of the City. He or she shall, at the commencement of his/her announcements, state the subject matter on which he or she desires to speak. Individual announcements shall not exceed two minutes unless additional time is authorized.
- Rule 10.** **Motions** - If any member of the Council makes a motion, such motion shall not be debated, or further discussed or considered, or voted upon, until after a second to such motion is made by a member of the Council.
- Rule 11.** **Speaking Time Limits for Councilmembers** - No member of the Council shall speak for more than ten (10) minutes on any matter without the consent of the presiding officer or a majority of the Council.
- Rule 12.** This section is suspended during the local emergency and social distancing orders or recommendations. **Speakers' Cards** - The City Clerk shall facilitate the process for public speakers and shall provide the public with information on how to appropriately address the Council. Members of the public wishing to speak must submit their name and the item on the agenda they wish to discuss, if any, to the City Clerk before being recognized by the presiding officer.
- Persons wishing to speak must complete a speaker card for each agenda item he/she wishes to speak on. Multiple agenda items cannot be listed on one speaker card.
- Speakers' cards must be received by the City Clerk (1) prior to Council action on Modifications to the Agenda for items agendized from 5:30 to 6:30 p.m., and (2) by 8:00 p.m. for items agendized for 6:30 p.m. or thereafter, unless consent to speak is given by the presiding officer or a majority of the Council.
- Multiple speakers representing an organization or position on an item are encouraged to organize their presentations before the Council. Designated spokesperson(s) representing the position of multiple speakers on an item will be allotted an appropriate allocation of time to address the Council on behalf of all of the speakers.
- Rule 13.** **Open Forum** - Open Forum prior to Modifications to the Agenda shall be limited to a total of 15 minutes. If all public speakers who submitted speaker cards for open forum pursuant to Rule 12 are not heard within the 15 minute

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time frame, open forum will be continued at the end of the agenda prior to adjournment.

Public Speakers submitting their names to speak under open forum shall be allotted a minimum of one (1) minute each to speak and a maximum of three (3) minutes. A speaker may speak only once under open forum during any one meeting, subject to the discretion of the presiding officer. Speakers during open forum may address the City Council regarding any items of public interest that are not on the meeting agenda. Open Forum speaker cards are to be numbered by the City Clerk in the order received.

The City Clerk shall advise the public that the Council cannot take any action under Open Forum unless it is deemed an emergency or urgency matter by a vote of the Council, as defined in the Sunshine Ordinance and Brown Act.

Rule 14.

Time Limits for Public Speakers on Committee and Council Agenda Items –

1. Any member of the public who has submitted a speaker card pursuant to Rule 12 on an agenda item, other than open forum shall be allotted a minimum of two (2) minutes to speak prior to any vote or action by the Council, subject to the regulations provided under this Rule 14. The President, presiding officer or Committee chair may reduce each speaker's allotted time to one (1) minute if he or she publicly states all reasons justifying any reduction in speaker time, which reasons shall be based at least on consideration of the time allocated or anticipated for the meeting, the number and complexity of agenda items and the number of persons wishing to address the local body, and whether there will be sufficient time available during the meeting to consider all agenda items if all speakers are allowed two minutes to speak.
2. Subject to the provisions of this Rule that apply to public speakers who submit multiple speaker's cards, all speakers on any one item shall be allotted the same amount of speaking time on that item, unless given pre-approved ceded or organized time pursuant to these Rules, or unless more time must be given to comply with due process or other legal requirements or in circumstances where the Council is acting in a quasi-adjudicatory capacity.
3. **Speakers Submitting Speaker's Cards on Multiple Items at Standing Committees.** Subject to Rule 14(7) and the discretion of the presiding officer, which discretion must be exercised in accordance with Rule 14(1) and (2), a speaker who submits his or her name to speak on four or more items (other than open forum) will be instructed to address all items concurrently and shall be allotted 2 minutes per item up to a maximum of 10 minutes; if the presiding officer exercises his/her discretion under Rule 14(1) and (2) to reduce each speaker's time to one

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(1) minute, speakers who submit four or more speaker's cards shall be allotted one (1) minute per item up to a maximum of 5 minutes.

4. **Speakers Submitting Speaker's Cards for Multiple Items on Non Consent Calendar at Council Meetings.** Subject to the discretion of the president or presiding officer, which discretion must be exercised in accordance with Rule 14(1) and (2), if 20 or more speaker's cards are submitted for the non consent calendar portion of the City Council meeting, which is scheduled to commence at 6:30 p.m., a speaker submitting his or her name to speak on four or more items on that portion of the agenda will be instructed to address all items concurrently and shall be allotted two minutes per item up to a total of ten (10) minutes.
5. **Speakers Submitting Speaker's Cards for Multiple Items on Agenda Items that Appear before the 6:30 p.m. Non-Consent Calendar for Council Meetings.** Subject to the discretion of the presiding officer, which discretion must be exercised in accordance with rule 14(1) and (2), public speakers who sign up for multiple items will be instructed to speak on all items at once and be given two (2) minutes to speak on each item up to a maximum of six (6) minutes.
6. **Ceding Time.** In case the allotted time for each speaker is less than two (2) minutes on an agendized item, a speaker may extend his or her speaking time if other speakers who have submitted their names to speak agree to cede their time to the recipient speaker. The recipient speaker will receive one (1) minute speaking time from each ceding speaker, up to a maximum of five (5) minutes. At the President's or presiding officer's discretion, a speaker may be allotted more than five (5) minutes based on ceded time. The recipient speaker must submit the ceding speakers' speaking cards, and the ceding speakers must be present at the time the recipient speaker speaks.
7. **Public Speakers on Scheduling Item at Rules and Legislation Committee.** Subject to the discretion of the presiding officer, which discretion must be exercised in accordance with Rule 14(1) and (2), public speakers who sign up to speak on the Scheduling Item at the Rules Committee will have one minute per scheduling request up to a maximum of 5 minutes, provide that a public speaker's total time for all items on the Rules agenda (excluding open forum) shall not exceed 10 minutes. (See Rule 14(3).)

Rule 15.

Presiding Officer's Role re Public Speakers - The presiding officer shall maintain order in the chamber, have authority to refuse the floor to any person. The presiding officer may rule a public speaker out of order if:

- (a) the speaker is speaking beyond the allocated time limit;

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- (b) if the speaker's remarks are not relevant to the agenda item or are repetitious; or
- (c) if the manner, tone and content of the speaker's remarks are disruptive (disturb the peace and good order of the meeting), maliciously attack the character of individuals or are abusive (e.g. vulgar or obscene language).

The public has the right to criticize policies, procedures, programs or services of the City or of the actions or omissions of the legislative body or staff.

Rule 16. **Public Speaker Procedures** - Persons addressing the Council shall state their name. They shall confine their remarks to the agenda item under discussion, unless they are speaking during the Open Forum portion of the Agenda.

Rule 17 **Attendance of Staff at Council Meetings** - The City Administrator shall designate appropriate staff to attend the Council meetings to answer questions and provide assistance to the public on issues. Prior to the commencement of the Council meeting, the City Clerk shall advise the public that a representative of the City is available to meet with members of the public to assist them with their concern(s).

Rule 18. **Ballot Measures** - A vote of a majority of the Council is required for endorsing or opposing any proposition submitted to the electorate on any national, state, county, or local ballot, and for propositions placed upon the ballot on the Council's own motion

Rule 19. **Appointments to Boards, Commissions and Other Bodies** - The Mayor shall submit to the members of the Council, at least one week in advance of the date action thereon is to be taken, the names of those persons to be appointed by the Mayor to any commission or board. The President of the Council shall submit to the members of the Council, at least one week in advance of the date action thereon is to be taken, the names of those persons recommended to be appointed by the President of the Council to those bodies and committees that are within the President's appointment authority. An affirmative vote of five (5) members of the Council is required for confirmation of such appointments.

Appointments by the Mayor to the Planning Commission, the Port Commission, the Housing, Residential Rent & Relocation Board, and the Police Commission shall first be scheduled to and considered by the Rules and Legislation Committee before being scheduled to the full Council. If the Rules and Legislation Committee to which an appointment has been scheduled is canceled, the appointment may be scheduled to the following week's regular Council agenda (i.e., to the 72-hour supplemental agenda) under the non-consent portion of the agenda, or to a special council meeting the following

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week, listed under non-consent if the special meeting agenda lists "consent" and "non-consent" items, if subject to and approved via Rule 28.

Rule 20. **Council's Annual Recess** - The City Council shall recess for the period of August 1 through 31 of each year, or until the first meeting in September as set by the Rules Committee which shall be known as the "annual recess." During the annual recess the City Council may be convened for special Council meetings as provided for by the City Charter.

Rule 21. **Actions During Council Recess** - The Mayor is authorized to take such actions as would normally be taken by the City Council during the period of the annual recess except for those matters specifically set forth herein. The Mayor is further authorized to convene emergency meeting(s) of the Council to take such emergency actions as may be necessary, for the immediate preservation of the public peace, health or safety. All matters approved by the Mayor during the Council recess must clearly set forth the reason(s) why approval cannot be deferred for Council approval following the recess. The Mayor's contract approvals must conform with and be limited to the requirements of the City's purchasing requirements as set forth in Chapter 2 of the Oakland Municipal Code. The Mayor is not authorized to take any actions for which the adoption of an ordinance is required. Further, the Mayor's approvals shall be limited to authorizations within previous adopted budgeted amounts. The Mayor is not authorized to appropriate funds without prior Council authorization and approval.

Mayor

is further directed to make a full and complete report to the City Council, at its first regularly scheduled meeting in October, of actions taken by the Mayor pursuant to this Resolution, at which time the City Council may make such findings and confirm said actions of the Mayor, as may be required.

Action(s) taken by the Mayor during the annual recess shall be implemented in a manner to provide public notice and an opportunity for public comment and input on matters to be approved. In keeping with the intent of the Sunshine Ordinance (OMC §§ 2.20.010 et seq.) the Mayor will cause a two-week agenda to be posted at regular posting locations. The Mayor, through the City Clerk, shall facilitate the receipt of written comments by the public on any matter presented to the Mayor for consideration. The Mayor shall review and consider all written comments in making his/her decision on the matter. A record of the final action of the Mayor shall be filed with the City Clerk along with any supporting legislation, reports and comments received on that matter. A summary of final action taken shall be posted at the regular agenda posting locations.

Rule 22. **Proclamations** - Individual Councilmembers may issue proclamation(s) for the purpose of commendation, recognition or congratulation of any person, group, organization or event, or for the purpose of expressing sympathy, regret

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or sorrow on the death of any person. Such a proclamation shall be known as a "Member Proclamation" and shall be in a form, which clearly identifies the Councilmember who has sponsored the proclamation. City Council approval is not required for the issuance of a Member proclamation.

Rule 23. **Rules and Legislation Committee's Jurisdiction** - The Committee on Rules and Legislation shall serve as the procedural committee of the Council and shall have responsibilities including, but not limited to, the following:

Make recommendations to the Council regarding endorsing or opposing propositions submitted to the electorate on any national, state, county, or local ballot, and for propositions placed upon the ballot on the Council's own motion.

Monitor pertinent state, federal and local legislative activities, and recommend action related thereto to the full Council. The Committee shall also submit to the Council, an annual legislative agenda.

To provide general oversight for the offices of the City Administrator, City Attorney, City Clerk and shall have policy jurisdiction on Public Information, Constituent Services, Community Governance, Strategic Planning, Public Ethics Commission and the State and Federal legislative agenda, intergovernmental relations and operational oversight of the Office of the City Council. It shall, in addition, monitor and assign issues pertaining to the Port Department, the Oakland-Alameda County Coliseum Authority, and other governmental agencies, as appropriate, and make referrals to appropriate standing committees as required.

To recommend the setting of special meetings of the Council, standing committees, and such other ad hoc committees as may be established by the Council.

To assign proposed Council resolutions and ordinances to the Council or committee agendas.

To define the jurisdiction and responsibilities of Council standing committees, subject to Council approval.

To make studies and recommendations designed to promote, improve and expedite the business and procedures of the Council and of the committees thereof, and to propose to the City Council any amendments to the Rules deemed necessary to accomplish such purposes.

Rule 24. **Rules and Legislation Committee's Powers re Agenda Items** - Except as provided in item 8 of Rule 7, the Rules Committee shall have jurisdiction to

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assign all proposed agenda items to committees and/or full Council for consideration and action as follows:

1. One or more members of the City Council, a committee of the City Council, the Mayor, the City Administrator, City Attorney, City Auditor and any member of the public may propose an agenda item for Council consideration to the Rules and Legislation Committee for assignment and scheduling through procedures established by the Rules and Legislation Committee.
2. Rules and Legislation Committee shall have the following options to assign and schedule any and all proposed resolutions and ordinances of the City Council:
 - a. to a subject-matter committee, or
 - b. to staff for review and report back to the requestor, or
 - c. directly to City Council pursuant to "3" below.
3. Rules and Legislation Committee shall not refer any action item directly to the full City Council unless the Committee determines by a majority vote of those present that the item should proceed directly to the City Council for a specified reason.
4. Rules and Legislation Committee shall assign and schedule any informational item for consideration and acceptance either by a committee or directly by the full Council.
5. The Rules and Legislation Committee shall have sole authority in establishing specific agenda items to be placed on the agenda. Rules and Legislation Committee shall establish the consent and non-consent agenda items of the City Council agenda.
6. Notwithstanding any other provision of these Rules of Procedure, the Rules and Legislation Committee shall have the power to place an item that is urgent on the supplemental agenda for a regular Council meeting or on a special Council meeting agenda, in accordance with the requirements of the Sunshine Ordinance, if no action was taken on the item (1) due to the cancellation of a committee meeting, (2) due to lack of a quorum, (3) because the committee ran out of time, or (4) because the committee was not able to approve any recommended action and the Committee passes a motion by the affirmative votes of the majority of the members who are present requesting that the Rules Committee schedule the item for a Council meeting.

Rule 25.

Accountability and Transparency in High-Stakes Negotiations Policy: Voting by Delegates and Alternates to Boards, Commissions and Other Bodies - City Councilmembers, the Mayor or City officials who represent the

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City as a delegate or alternate before any board, agency, authority, joint powers authority, commission, etc. shall receive City Council authorization from a majority of the Council prior to casting vote(s) on behalf of the City on any matter which could have a significant economic or policy impact on the City, or on any matter of particular controversy. Should time be of the essence, resulting in the representative's inability to obtain prior City Council authorization, the representative shall obtain approval from the appropriate City Council committee (e.g., the committee which has subject matter jurisdiction over the issue in question). Thereafter, the representative shall report back to the full Council, at the next regularly scheduled meeting of the Council, the action taken.

City Council delegates and alternates shall: (i) within 30 days of appointment to represent the City on such bodies, participate in training provided by the City Administrator or designee on the duties and obligations of representation; (ii) provide the City Council and/or the appropriate Council committee with an annual report or briefing on general business regarding the issues, activities and agenda of the body on which the representative serves; (iii) notify the City Council as soon as high-stakes negotiations or transactions commence; (iv) provide the City Council real-time reports on high-stakes negotiations or transactions.

In the event that a representative determines that casting a vote as directed by the Council would not be in the best interest of the City because of changed circumstances or new information that was not available at the time authorization was granted, the representative may change his/her vote(s). The representative shall, however, attempt to carry forth the general intent of the Council when casting a changed vote. Thereafter, the representative shall report back to the full Council, the action taken and the basis upon which the vote was changed.

"High-Stakes" negotiations/transactions shall be defined as any negotiations or transactions by a board, commission, agency, joint powers authority, etc. with Council appointed Councilmember, Mayor or City official delegates or alternates involving: (i) licenses, leases, contracts or other transactions that could or will have an economic impact of \$1,000,000.00 or higher on the City of Oakland or a significant policy impact or a matter of particular controversy.

Rule 26.

Procedure for Councilmember to Place Items on Agenda - Councilmembers should thoroughly investigate policy issues prior to submitting proposals to a committee or the Council for action. On matters pending before a committee or Council, Councilmembers should, when feasible and in compliance with City Charter and open meeting requirements, study and obtain information relative to an issue prior to the meeting where action is to be taken. Requests for formal informational and status reports must be approved by the Rules Committee and should be minimized.

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Committees may direct that items appropriately pending before the committee be scheduled for future committee agendas. New items and issues brought before a committee shall be referred to the Rules Committee for scheduling. The Rules Committee shall provide general oversight of the implementation of this Rule to insure compliance.

Before filing agenda materials in the packet, non-ceremonial resolutions and ordinances that would create new agenda items must be submitted to the City Attorney for review. The sponsor of the non-ceremonial resolution or ordinance must file a memorandum or report no later than the deadline for filing the non-ceremonial resolution or ordinance in the agenda packet.

Rule 27.

Quorum for Standing Committees - A quorum for the conduct of meetings of standing committees, which have a membership of four, shall be three (3) members. A quorum for the conduct of meetings of the Education Partnership and City/Port Liaison Committees shall be a majority of the seats designated for each body. If the Council seat of a member of a standing committee becomes vacant, the quorum for that committee shall not be reduced. A quorum for all other established committees shall be a majority of the duly appointed members. In the event that a quorum is not established within fifteen (15) minutes of the noticed start time of the meeting, the meeting **may** be declared canceled. However, discussion of the items noticed on the agenda may continue but no formal action can be taken. The City Clerk will prepare a record of the discussion, but the record will reflect that the meeting was canceled due to a lack of a quorum and that no final action was taken on the items discussed. In determining whether a meeting should be canceled, the Committee Chairperson should consider factors such as whether the delay is caused by conflicting meeting schedules; if prior notice from the member was given that he or she would be late; or if there is a need to take official action on important item(s) of business once a quorum has been established.

The City Clerk shall keep a record of Committee members' attendance. The attendance record shall reflect absences and tardiness (arrival after the fifteen (15) minute scheduled start time) and shall indicate whether the absence or tardy was excused or unexcused. If during the calendar year a Committee member accumulates three (3) unexcused absences ad/or late arrivals the City Clerk shall so advise the President of the Council and the President of the Council may, in his or her discretion, remove the member from the Committee. If removed, the member can be considered for reappointment by the President of the Council, as appropriate.

Rule 28.

Procedure to Add, Remove Agenda Items -

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- A. For Council items, anyone wishing to add or remove a Council agenda item after the Rules Committee has met, but before the agenda is printed, must get authorization from the Chair of the Rules Committee, the Mayor and/ or City Administrator, and the President of the Council. If any one of these persons objects, or if addition or removal of such item is contrary to the Sunshine Ordinance or the Brown Act, the subject agenda as approved by the Rules Committee will not be changed. If authorization is obtained, the City Administrator is responsible for notifying the City Clerk prior to the affected Council meeting, to amend the agenda to reflect the approved change. Once the agenda is printed, an item may only be removed at the next Rules and Legislation Committee meeting if there is an intervening Rules Committee meeting prior to the City Council meeting for which the item is agendaized or upon a duly adopted motion of the City Council at the meeting for which the item is agendaized, if there is no intervening Rules and Legislation Committee meeting.
- B. For Committee items, anyone wishing to add or remove a Committee agenda item after the Rules and Legislation Committee has met, but before the agenda is printed, must get authorization from the Chair of the Rules and Legislation Committee, the President of the Council, the Mayor and/or City Administrator, and the respective Committee Chair. If any one of these persons objects, or if addition or deletion of such item is contrary to the Sunshine Ordinance or Brown Act, the subject agenda as approved by the Rules Committee will not be changed. If authorization is obtained, the City Administrator is responsible for notifying the City Clerk of the authorized change prior to the affected Committee meeting to amend the agenda to reflect the approved change. Once the agenda is printed, an item may only be removed at the next Rules and Legislation Committee meeting if there is an intervening Rules and Legislation Committee meeting prior to the Committee meeting for which the item is agendaized or upon a duly adopted motion of the Committee at the meeting for which the item is agendaized, if there is no intervening Rules and Legislation Committee meeting.
- C. Within 2 business days of any approved Rule 28 decision, the City Administrator shall notify the City Council of the decision via e-mail.

Rule 29.

Tie-Breaking Votes by Mayor - In the event that the members of the Council are evenly divided in their vote on an item (by motion, resolution or ordinance) the item will automatically be continued to its next regularly scheduled meeting solely for the purpose of allowing the Mayor to cast a vote; provided that if the Mayor so chooses, he/she may cast a vote at the meeting at which the tie vote occurs. The City Clerk shall provide the Mayor with all supporting documentation, reports and legislation relating to the item and a copy of the videotape of the discussion, if available. Council and public discussion is permitted on the item to be voted on by the Mayor; however, Council

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members cannot change their vote unless the item has been properly noticed for reconsideration. The Mayor must appear at the Council meeting to cast his/her vote.

Rule 30.

Resolution or Ordinance Required to Approve Contracts -
Notwithstanding City Charter section 210 which permits the City Council to take action by ordinance or resolution or motion, the Council shall approve and authorize contracts by resolution unless an ordinance is required; and be it

FURTHER RESOLVED: That the City Council hereby adopts the following Censure Policy and Procedure and Code of Conduct for each member of the City Council:

City Council Resolution 88113, adopted in 2020

OAKLAND CITY COUNCIL CENSURE POLICY AND PROCEDURES

BACKGROUND:

The City of Oakland and the City Council have a strong commitment to the Oakland Charter, legislation, ethical and council policies and procedures. The City Council has the power to censure one of its members for violations of these laws, policies and procedures. The Council's Code of Conduct, which is part of the Council's Rules of Procedure, states that the City Council may censure any member "who willfully violates the rules of conduct contained in this Code of Ethics." (City Council Resolution No.82580, Code of Conduct No. 12, see also, Sunshine Ordinance, Oakland Municipal Code section 2.20.170 (censure for release of confidential information).) Moreover, censure is an inherent power of a legislative body that follows Robert's Rules of Order. (*Roberts*, p. 627-28, Section 61.) In order to be able to censure a Council member, the City Council must adopt a fair policy and procedure for the process.

PURPOSE:

This Policy and Procedure is intended to provide the process by which the City Council acting as a whole can censure any of its members who violate state or federal laws, City ordinances or policies.

COUNCIL CODE OF CONDUCT:

The Council's Code of Conduct, which is part of the Council's Rules of Procedure codified in Resolution No. 82580 C.M.S., provides as follows:

"Each member of the City Council has a duty to:

1. Respect and adhere to the American ideals of government, the rule of law, the principles of public administration and high ethical conduct in the performance of public duties.
2. Represent and work for the common good of the City and not for any private interest.
3. Refrain from accepting gifts or favors or promises for future benefits which might compromise or tend to impair independence of judgment or action.
4. Provide fair and equal treatment for all persons and matters coming before the Council.
5. Learn and study the background and purposes of important items of business before voting.
6. Faithfully perform all duties of office.

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7. Refrain from disclosing any information received confidentially concerning the business of the City, or received during any closed session of the Council held pursuant to state law.
8. Decline any employment incompatible with public duty
9. Refrain from abusive conduct, personal charges or verbal attacks upon the character, motives, ethics or morals of other members of the Council, staff or public, or other personal comments not germane to the issues before the Council.
10. Listen courteously and attentively to all public discussions at Council meetings and avoid interrupting other speakers, including other Council members, except as may be permitted by established Rules of Order.
11. Faithfully attend all sessions of the Council unless to do so because of disability or some other compelling reason.
12. Maintain the highest standard of public conduct by refusing to condone breaches of public trust or improper attempts to influence legislation, and by being willing to censure any member who negligently, willfully or intentionally violates the rules of conduct contained in this Code of Ethics."

CENSURE POLICY:

It is the Policy of the City Council that all its members shall abide by federal and state law, the City Charter, City legislation and City Council policies. Violation of such law or policy can subject the City to liability, affect the City's budget, resources, plans and timelines, injures the good name of the City and undermines the effectiveness of the City Council as a whole. Such conduct is deemed to be subject to City Council Censure.

Censure is a formal resolution of the City Council officially reprimanding one of its members. Censure serves to formally put a censured councilmember on notice of the Council's disapprobation of conduct that has violated laws or policies, but carries no fine or suspension of the rights of the member as an elected official. Censure is an appropriate punitive measure when the violation of law or policy is deemed by the City Council to be a serious offense.

In order to protect the overriding principle of freedom of speech, the City Council shall not impose "censure" on any of its members for the exercise of his or her First Amendment rights no matter how distasteful the expression was to the Council, officials, employees or public. However, nothing herein shall be construed to prohibit the City Council from collectively expressing their strong disapproval of such remarks.

The City Council shall not impose "censure" on any of its members for the violation of any law while criminal charges are pending. However, when the criminal proceedings are final, the City Council need not be bound by the conclusion of the Court and may hold a "censure" hearing.

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PROCEDURE:

1. A request to schedule a "censure" hearing must be submitted to the Rules Committee in writing by a member of the Council.
 - a. The scheduling request must contain a brief description of the specific charges on which the proposed censure is based in the title of the item.
 - b. A censure resolution setting forth specific charges and grounds for censure must be submitted to the City Clerk with the scheduling request at least forty eight (48) hours prior to the Rules Committee meeting at which it will be considered for scheduling.
 - c. The City Clerk shall serve copies of the scheduling request and the censure resolution on the accused councilmember at least twenty-four (24) hours prior to the Rules Committee meeting at which it will be considered for scheduling. The City Clerk shall deliver the scheduling request and censure resolution to the council office of the accused member, subject to execution of a proof of service. Service shall be accomplished by electronic mail or in person, as determined by the City Clerk.
2. The Rules Committee shall:
 - a. Schedule the matter for public hearing; or
 - b. Refer the matter to the City Administrator for further investigation by an independent investigator, in consultation with the City Attorney, prior to scheduling the matter; or
 - c. Not schedule the matter for public hearing.
3. Censure matters set for public hearing must be scheduled at least 10 calendar days in advance of the hearing date to give the accused member adequate time to prepare a defense.
4. The councilmember seeking censure of another councilmember is responsible for preparing and submitting to the City Clerk a censure resolution and report supporting censure in time for publication with the 10-day agenda packet for the meeting at which the matter will be heard. The City Clerk shall, at least 10 calendar days before the hearing, deliver copies of the resolution, report and other agenda materials to the council office of the accused member, subject to execution of a proof of service.
5. The accused member is responsible for preparing and submitting to the City Clerk for the agenda packet, reports, documents or other information opposing censure in time for the three (3) day supplemental agenda.

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6. At the hearing, the member of the Council subject to the censure proceeding shall have the opportunity to rebut the allegations in the censure resolution and to question any known accusers if they agree to be questioned. Notwithstanding the foregoing, identities of persons who provided statements or information in confidence shall remain confidential. This includes, but is not limited to, persons who provided statements or information through a whistleblower program of the federal or state government or City of Oakland. The member subject to the charges may be represented and may have the representative speak or question on his or her behalf.
7. A decision to censure must be made by resolution and based on conduct found to have been negligent, willful or intentional. A decision to censure requires five (5) votes of the Council adopting a resolution: 1) finding there is substantial evidence in the record to support the specific charges alleged, 2) finding that the conduct supporting the censure was negligent, willful or intentional, and 3) approving censure.

IN COUNCIL, OAKLAND, CALIFORNIA,

MAY 12 2020

PASSED BY THE FOLLOWING VOTE:

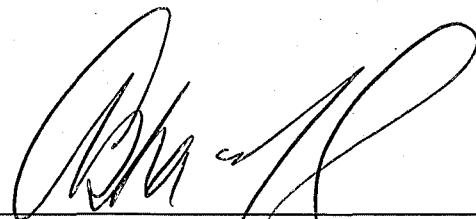
AYES - FORTUNATO BAS, GALLO, GIBSON, MCELHANEY, KALB, REID, TAYLOR,
THAO AND PRESIDENT KAPLAN ⁸

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California

2929193v5

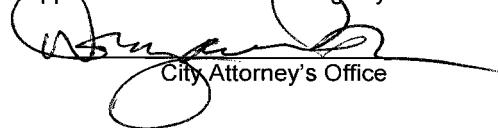
City Council Resolution 84385, adopted in 2013

REVISED BY THE COUNCIL AT MAY 21, 2013 COUNCIL MEETING

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2013 JUN 19 PM 1:20

Approved as to Form and Legality



City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. 84385 C.M.S.

INTRODUCED BY COUNCILMEMBER LIBBY SCHAAF

**RESOLUTION ESTABLISHING THE CITY OF OAKLAND'S
BUDGET PROCESS TRANSPARENCY AND PUBLIC
PARTICIPATION POLICY**

WHEREAS, Article VIII, section 801, of the Charter of the City of Oakland provides that the City Administrator shall propose budget recommendations for the next fiscal year under the direction of the Mayor and the City Council in the form, in the manner and at a time as the Council shall prescribe by resolution; and

WHEREAS, the City's Adopted Biannual Budget designates how all revenues shall be allocated among City functions, services, and liabilities, such as police, libraries, and employee retirement costs, and bond liabilities; and

WHEREAS, the level of core municipal services provided to the public directly impacts the quality of life of the people who live, work and recreate in Oakland; and

WHEREAS, every two years, the Mayor and City Administrator release a proposed budget for City Council consideration; and

WHEREAS, the City Council, after considering the public's priorities as well as the totality of current and projected revenues and liabilities, must adopt a balanced biannual budget by June 30 in each two-year budget cycle; and

WHEREAS, no formal policy currently exists for clearly ensuring minimal levels of transparency or public participation into the development of the budget beyond what is required by Oakland's Sunshine Ordinance; and

WHEREAS, public participation and collaboration may enhance local government's effectiveness, expand its range of options, improve the quality of its decisions, and enlist the problem-solving capacities of the general public and organizations outside local government, and

WHEREAS, knowledge and talent are widely dispersed in society, and all benefit when those skills and abilities are directed toward common goals; now, therefore, be it

City Council Resolution 84385, adopted in 2013

RESOLVED, that the City Council of the City of Oakland hereby finds, determines, declares and resolves that all of the recitals set forth above are true and correct; and be it

FURTHER RESOLVED, in order to ensure that the public has access to and an ability to participate in the creation of the City of Oakland's biannual budget and that Oakland decision makers have the public feedback to allow them to prudently manage the City's fiscal resources and adopt a budget responsive to public needs and priorities, the City Council hereby adopts the Budget Process Transparency and Public Participation Policy, as set forth below:

THE CITY OF OAKLAND'S BUDGET PROCESS TRANSPARENCY AND PUBLIC PARTICIPATION POLICY

All deadlines apply only to budget development years, normally odd numbered years and not to mid-cycle revisions to an adopted two-year budget.

1. Council Budget Briefing and Priorities Discussion

Deadlines: Late fall.

Requirements: The Mayor and City Council will hold a bi-annual budget workshop in late fall of the year preceding the year in which a budget is adopted. The workshop will include briefings on estimated baseline expenditures, revenue projections and an overview of the City's budgeting process. The workshop will provide the Mayor and Council with the opportunity to begin discussing priorities for the next budget year based on preliminary projected increases or decreases in the next budget.

2. Five Year Forecast

Deadlines: Produced by February 1st and at least 10 days before the matter is heard by a Council body. Heard by the Council's Finance & Management Committee by February 15th. Forecast Fact Sheets should be distributed to City community centers and Forecast data should be available on Open Data Portal within two weeks of Council acceptance.

Requirements: Each Budget Cycle, the City Administrator must prepare a Five Year Forecast pursuant to Resolution 81399. The Forecast shall contain the two-year baseline budget for the forthcoming two-year budget period, clearly reflecting projected expenditures to maintain existing service levels and obligations, plus an additional three-year forecast of revenues and expenditures. The Baseline Budget shall consist of projected expenditures necessary to maintain existing staffing and service levels, plus an estimate of anticipated revenues for the two-year period. The Forecast shall also contain information on the variance between prior forecasts and actual amounts, including the factors that influenced these variances. Revenue estimates shall be based on the most current data available; at a minimum, revenue projections shall take into account projected revenue for the current fiscal year, as reflected in the 2nd quarter Revenue and Expenditure Report, with appropriate trending into future years and an explanation as to how such revenue projections were derived.

City Council Resolution 84385, adopted in 2013

The Forecast shall also contain information on the variance between prior forecasts and actual amounts, including the factors that influenced these variances.

The report shall include a Five Year Forecast “Fact Sheet” document, which summarizes the Forecast’s key findings with simplified text and graphics so as to make this important budgetary information more accessible to the general public. Within two weeks after the Forecast is accepted by the City Council, the City Administrator shall print and distribute the Forecast Fact Sheet to all City libraries, recreation centers and senior centers, including in languages required by Oakland’s Equal Access Ordinance. The full Five Year Forecast shall also be posted on the City of Oakland’s website. Forecast data shall be available in open data format on Oakland’s data portal within two weeks of acceptance by City Council.

3. Assessment of Stakeholder Needs, Concerns and Priorities

Deadlines: Budget Advisory Committee review by January 30th. Survey completion by March 30th. Results publicly available within two weeks of survey’s close.

Requirements: During the January – March period prior to Budget Adoption of a budget adoption year, the City Administrator should develop or secure a statistically valid survey for assessing the public’s concerns, needs and priorities. Whenever feasible, the City should conduct a professional poll administered to a statistically relevant and valid sample of residents that is representative of Oakland’s population in terms of race, income, neighborhood, age, profession, family size, homeownership/renter-ship, etc. If that’s not possible, then demographic information should be collected and reported out with the survey results.

Prior to release, the survey questions shall be submitted to the Budget Advisory Committee for review of bias, relevance, consistency in administration, inclusion of benchmark questions, and ability to assess concerns, needs and priorities. The survey instrument, method of dissemination, and any instructions for administration shall be publicly available.

If the City cannot afford a professional survey, an informal survey shall be made available for broad dissemination by the Mayor and Councilmembers through community list serves and other communication channels. A list of those dissemination channels should be publicly available along with survey results. Survey results should be publicly available no longer than two weeks after the survey closes.

In the event that City’s statistically valid survey has been completed, the Mayor and City Administrator shall include in their proposed budget a summary of the survey data and a statement regarding how the data was or was not incorporated into the final proposed budget. Informal surveys and their results shall be made public but not included in their proposed budget document.

City Council Resolution 84385, adopted in 2013

The City Administrator shall also create an email address, a phone number with voicemail service, and a web-based engagement platform to collect resident input prior to budget development. Furthermore, the City Administrator shall take steps to promote participation, such as issuing a Flyer promoting participation in the survey and methods of participation (survey internet link, email, phone number) and posting such Fliers near publicly available computers in all City libraries, Recreation Centers, and Senior Centers.

4. Statement of Councilmember Priorities

Deadlines: Written submission due by April 1st.

Requirements: City Council Members will have the opportunity to advise the Mayor and City Administrator publicly of their priorities. Each Councilmember shall be invited to submit up to seven expenditure priorities in ranked and/or weighted order for changes to the baseline budget as presented in the Five Year Forecast. Councilmember priority statements may either be submitted as part of a report to be heard by the City Council and/or in a publicly available writing to the Mayor and City Administrator. In addition to the priorities, Councilmembers may also submit other suggestions, including revenue suggestions.

5. Administrator's Budget Outlook Message & Calendar Report:

Deadline: Heard by City Council before April 15th.

Requirement: The City Administrator shall bring as a report to the City Council a Budget Outlook Message & Calendar no later than April 15th that provides an overview of the budget development process and lists all key dates and estimated dates of key budget events, including, but not limited to the release of the Mayor and Administrator's Proposed Budget, Community Budget Forums, Council meetings, and final budget passage dates. This publication shall be posted on the City's website and by other means determined by the City Administrator.

6. Release of Mayor & Administrator's Proposed Budget & Fact Sheet

Deadlines: Published and publicly available by May 1st. Heard by City Council and Fact Sheet distributed by May 15th.

Requirements: The Proposed Budget must be released by May 1st and shall clearly indicate any substantive changes from the current baseline budget, including all changes to service levels from the current budget. The Proposed Budget shall indicate staffing by listing the number of positions in each classification for each Department, including a listing of each position proposed for addition or deletion. The Council shall hold a public meeting to present the Proposed Budget no later than May 15th in budget adoption years. The full proposed budget document shall be made available online from the City's website, and printed copies shall be available in all City libraries. Additionally, the proposed budget data shall be available in open data format on the City's open data portal by May 1st. Every effort should be made to thoroughly respond to any public request for departmental budget details, such as line item budgets. The requested information shall

City Council Resolution 84385, adopted in 2013

also be made available on the City's website and open data portal within a reasonable time period following the request.

The Proposed Budget must include a Budget Fact Sheet with easy-to-understand graphics and text explaining the City's overall finances, the Proposed Budget and that year's Budget Calendar. The Fact Sheet shall be published in languages required by Oakland's Equal Access Ordinance. The Fact Sheet shall be printed and made available in all City Recreation Centers and Senior Centers as well as all City libraries by May 15th or the presentation to the Council, whichever is sooner.

7. Community Budget Forums

Deadlines: Between May 1st and June 10th

Requirements: The Administration and Council shall hold at least three (3) Community Budget Forums at varied times in different neighborhoods away from City Hall. These meetings, organized by the City Administrator's Office shall be scheduled so as to maximize residents' access. These meetings must include sufficient time for question and answer period as well as a presentation of budget facts by City staff. One or more of the meetings must be scheduled in the evening. Another must be scheduled on the weekend. These meetings shall also be scheduled so that Councilmembers have sufficient opportunity to attend a meeting close to their council district. Every member of the City Council shall make their best effort to attend at least one Community Budget Forum. In addition, members of the Budget Advisory Commission shall be requested to attend at least one Community Budget Forum. Translators will be provided by request with forty-eight hours advance notice, per Oakland's Equal Access Ordinance. Sufficient Fact Sheets in all available languages shall be available at all Forums.

Meetings shall be held in ADA accessible facilities served by public transit (BART stop, frequently running bus line, etc). Every effort shall be made to record the meeting via video or audio. The City Administrator shall prepare an Informational Report summarizing the Community Forum process, to be heard by the City Council at its the next available budget discussion following the final Forum. The summary memo shall attempt to identify key areas of public agreement and disagreement, as well as respond to the most commonly asked questions.

8. Budget Advisory Commission's Report

Deadline: June 1st

Requirements: The Budget Advisory Committee (BAC) shall be requested to submit a published, written report to the full City Council regarding the proposed budget with any suggested amendments no later than June 1 in budget adoption years. If submitted, the statement shall be published as part of the next budget report to the City Council. The BAC is encouraged to provide similar statements during the mid-cycle budget revise and any other significant budget actions.

City Council Resolution 84385, adopted in 2013

9. Council President's Proposed Budget

Deadline: June 17th

Requirements: The City Council President, on behalf of the City Council, shall prepare a proposed budget for Council consideration to be heard at a Special City Council Budget Hearing occurring before June 17th. The Council President may delegate the duty to prepare a budget proposal to another member of the Council. A costing analysis request for any proposed amendments must have been submitted to the City Administrator at least five working days prior to the Special City Council Budget Hearing. The City Council may schedule additional Special City Council Budget Hearings or Workshops as needed.

10. Council Budget Amendments

Deadline: No later than up to three days prior to final budget adoption

Requirements: In addition to the Council President's proposed budget, any Councilmember or group of Councilmembers may submit proposed budget amendments at any time during the budget process. However, the adopted budget shall not contain substantive amendments made on the floor by Councilmembers at the final meeting when the budget is adopted. All substantive amendments must have been published in the City Council agenda packet for at least three days prior to the budget's final adoption. This three-day noticing requirement may be waived by a vote of at least six Councilmembers upon a finding that (1) new information impacting the budget by at least \$1 million dollars came to the attention of the body after the publication deadline making it not reasonably possible to meet the additional notice requirement and (2) the need to take immediate action on the item is required to avoid a substantial adverse impact that would occur if the action were deferred to a subsequent special or regular meeting, such as employee layoffs.

Additionally, a costing analysis request for the proposed budget amendment must have been submitted to the City Administrator at least five working days prior to the budget's final adoption.

11. Process Feedback & Continual Improvement

Deadline: September 30th following budget adoption

Requirements: The Budget Advisory Commission (BAC) shall be requested to submit an Informational Report to the Council's Finance and Management Committee containing their analysis of the budget adoption process including, but not limited to: 1) the informational quality of the Proposed Budget; 2) the City Administration's and City Council's attention to engaging the public and its impacts on the budget process and product; 3) the level of transparency and open dialogue in all public meetings dedicated to the budget; and 4) opportunities for improving the process in future years.

City Council Resolution 84385, adopted in 2013

In assessing opportunities for continually improving public participation in the budget process, the Administration, City Council and BAC shall be requested to consider the following guiding principles:

- **Inclusive Design:** The design of a public participation process includes input from appropriate local officials as well as from members of intended participant communities. Public participation is an early and integral part of issue and opportunity identification, concept development, design, and implementation of city policies, programs, and projects.
- **Authentic Intent:** A primary purpose of the public participation process is to generate public views and ideas to help shape local government action or policy.
- **Transparency:** Public participation processes are open, honest, and understandable. There is clarity and transparency about public participation process sponsorship, purpose, design, and how decision makers will use the process results.
- **Inclusiveness and Equity:** Public participation processes identify, reach out to, and encourage participation of the community in its full diversity. Processes respect a range of values and interests and the knowledge of those involved. Historically excluded individuals and groups are included authentically in processes, activities, and decision and policymaking. Impacts, including costs and benefits, are identified and distributed fairly.
- **Informed Participation:** Participants in the process have information and/or access to expertise consistent with the work that sponsors and conveners ask them to do. Members of the public receive the information they need, and with enough lead time, to participate effectively.
- **Accessible Participation:** Public participation processes are broadly accessible in terms of location, time, and language, and support the engagement of community members with disabilities.
- **Appropriate Process:** The public participation process uses one or more engagement formats that are responsive to the needs of identified participant groups; and encourage full, authentic, effective and equitable participation consistent with process purposes. Participation processes and techniques are well-designed to appropriately fit the scope, character, and impact of a policy or project. Processes adapt to changing needs and issues as they move forward.
- **Use of Information:** The ideas, preferences, and/or recommendations contributed by community members are documented and given consideration by decision-makers. Local officials communicate decisions back to process participants and the broader public, with a description of how the public input was considered and used.
- **Building Relationships and Community Capacity:** Public participation processes invest in and develop long-term, collaborative working relationships and learning opportunities with community partners and stakeholders. This may include relationships with other temporary or ongoing community participation venues.
- **Evaluation:** Sponsors and participants evaluate each public participation process with the collected feedback and learning shared broadly and applied to future public participation efforts.

City Council Resolution 84385, adopted in 2013

.; and be it

FURTHER RESOLVED, that the above policy is intended to ensure the minimal requirements and a baseline for transparency and public participation in the budget process and that the City of Oakland shall continually strive for more robust public participation in all its decision-making; and be it

FURTHER RESOLVED, that this Resolution shall take effect immediately upon its passage.

IN COUNCIL, OAKLAND, CALIFORNIA,

MAY 21 2013

PASSED BY THE FOLLOWING VOTE:

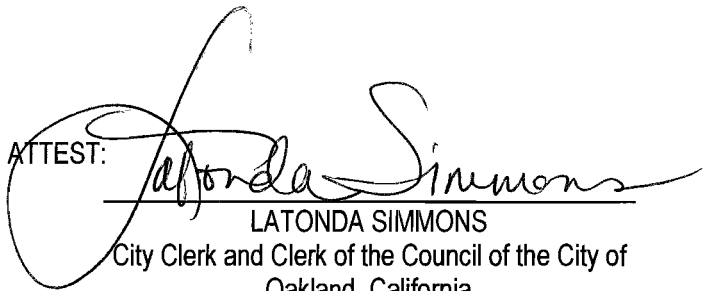
AYES - ~~Brooks~~, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, ~~Reid~~, SCHAAF, AND PRESIDENT KERNIGHAN - 6

NOES - Brooks, Reid - 2

ABSENT - 0

ABSTENTION - 0

ATTEST:


LATONDA SIMMONS
City Clerk and Clerk of the Council of the City of
Oakland, California

Mediation Summary



James E.T. Jackson, Chair
Nayeli Maxson Velázquez, Vice Chair
Jill M. Butler
Michael MacDonald
Janani Ramachandran
Joseph Tuman
Jerett Yan

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Kellie Johnson, Enforcement Chief
DATE: July 20, 2020
RE: *In the Matter of City Councilmen Loren Taylor. (Case No. M2020-05);* Mediation Summary for the August 3, 2020, PEC Meeting

I. INTRODUCTION

On February 20, 2020, the Commission received a request for mediation from the requestor alleging that a Staff employee in the Office of City Councilmember Loren Taylor failed to provide responsive documents to a public records request. More than seven months had passed since the request was filed and the requester had not received a response.

Staff initiated the Mediation process in March 2020. On July 17, 2020, Pamela Ferran, Chief of Staff with Councilmen Loren Taylor's office released responsive documents to the requester and the request was closed. Staff recommends that the Commission close the mediation without further action.

II. SUMMARY OF LAW

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

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

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

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

² Government Code § 6253(b).

³ O.M.C. § 2.20.270(C)(1).

⁴ O.M.C. § 2.20.270(F).

⁵ Complaint Procedures § IV (C)(5).

III. SUMMARY OF FACTS

In October 16, 2019, the Requester made a public records requests for the following:

“emails from or to Loren Taylor pertaining to proposed Howard Terminal Ballpark January 1, 2019 to October 16, 2019. ”

The complete text of the NextRequest timeline is as follows:

Request #19-5117

Closed

Details

emails from or to Loren Taylor pertaining to proposed Howard Terminal Ballpark January 1, 2019 to October 16, 2019.

Received

October 16, 2019 via web

Due

October 28, 2019

Departments

Council District 6 - Loren Taylor

Documents

[PRR re Howard Terminal .pdf](#)

[Link to View document](#)

Staff

Point of Contact

Susan A. Sanchez

- [**Add Message \(Sign in Required\)**](#)

Timeline

Request Closed Hide Public

We have redacted personal information, including but not limited to, telephone numbers, social security numbers, credit card numbers and other personal identifying information pursuant to the constitutional rights of privacy and to protect against identity theft pursuant to Government Code Section 6254(c).

July 17, 2020, 5:49pm

Document(s) Released Public

PRR re Howard Terminal .pdf

July 17, 2020, 5:42pm

Department Assignment Public

Council District 6 - Loren Taylor

October 16, 2019, 9:38am

Request Opened Public

Request received via web

October 16, 2019, 9:38am

The requestor made the request for records on October 16, 2019. On or around the same date, Susan Sanchez was noted as the "Point of Contact." Ms. Sanchez works for the City Council Office and is assigned the duties of the NextRequest liaison. The liaison to NextRequest generally receives a notice of the inquiry to NextRequest and routes it to the correct City Councilmember's Department.

Although assigned as the point of contact in October 2019, neither Susan Sanchez nor anyone else from City Hall responded to the requestor in NextRequest. The Brown Act Requires the following:

California Government Code §6253.

(a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(c) Each agency, upon a request for a copy of records, shall, **within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor.** In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or their designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available...

Contrary to the requirements of the Brown Act, no information was uploaded to Next Request to inform the requestor which department would respond to the request, if the department had responsive documents and when or if the documents would be disclosed to the requestor.

Ms. Sanchez informed Staff that:

" all PPR come to me as point of contact from the entire Council office. However, NextRequest system send an email to the designated District Council's Point Person. They are responsible to comply with the request. It is my responsibility to

Mediation Summary

update the Council's PRR contact listing and to assist with Council's District offices with the functions of the NextRequest system and with the City of Oakland's Resources i.e. ITD.”

NextRequest did not contain any information, note or memorialization that the request was routed to Loren Taylor’s Office. Between October 2019 and July 2020, NextRequest does not note or reflect that any activity was conducted in response to the requester’s inquiry.

On July 17, 2020, Staff contacted Mark Forte with the City Attorney’s Office (Mr. Forte is the City’s contact person within the City Attorney’s Office that coordinates NextRequest and provides trainings on NextRequest) to inquiry which department would be responsible for responding to NextRequest and what is the name of the contact person who could address the request. Mr. Forte confirmed that Councilmen Loren Taylor’s Department was responsible for uploading any responsive documents once they received the request and that Taylor’s Chief of Staff Pamela Ferran was the person to contact. Staff contacted Ms. Ferran on July 17, 2020 around 2:30 p.m.

Ms. Ferran could not confirm whether the NextRequest notice was sent to her office back in October 2019. Nonetheless around 5:30 p.m. on that same day, Ms. Ferran uploaded responsive documents on NextRequest for release to the requester and closed the request. Next request was also updated to reflect that the request was routed to Loren Taylor’s Office.

IV. RECOMMENDATION

Albeit delayed, the requester received all responsive documents, Staff recommends that the Commission close the mediation without further action.



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

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Jelani Killings, Ethics Analyst
Whitney Barazoto, Executive Director
DATE: July 24, 2020, for the August 3, 2020, PEC Meeting
RE: 2020 LPF Program Implementation

Summary

The PEC administers the Limited Public Financing (LPF) Act, which provides public funds for City Council district candidates running for office in Oakland. Commission staff is gearing up for program implementation for the 2020 election. This memorandum provides an overview of the LPF program and plan for the 2020 election.

Background

The Limited Public Financing Act was adopted in 1999 to provide limited monetary assistance to candidates for local elective office for the purpose of helping ensure that all individuals have a fair and equal opportunity to participate in the elective and governmental process. The LPF Act was amended in 2010 to set specific parameters around who may participate, how funds may be used and how the funds may be dispersed. The program now is a reimbursement system for city council district candidates only.

The Commission is responsible for administering the LPF program, including developing procedures, publishing reimbursement application forms, ensuring that candidates meet eligibility criteria, and issuing payments to candidates for qualified expenditures.

The process for applying for public funds begins after the City Clerk certifies the names of all candidates to appear on the ballot, shortly after the close of nominations on August 7, 2020, which is 88 days before the November election. No later than 7 days after the City Clerk certifies the names of candidates, the Commission must determine at a public meeting whether the amount of money in the Election Campaign Fund is adequate to provide the maximum amount of funds to potentially eligible candidates, and if not, the Commission will disburse available funds on a pro rata or other equitable basis.

Funds Available

Currently, there is approximately \$153,000 allocated in the Election Campaign Fund for use for the Limited Public Financing Program for the 2020 election.

There are four district seats open in the November 2020 election: District 1, District 3, District 5, and District 7. As of the date of this memorandum, there are 22 candidates in total who have filed campaign forms as a candidate for office in one of these four districts.

Under the LPF Act, a candidate may receive LPF funds in an amount up to 30% of the voluntary expenditure ceiling for that race; however, the amount in the Election Campaign Fund ultimately dictates how much money would be available to each candidate. The Commission will need to determine whether the amount of money in the Election Campaign Fund is adequate to provide the maximum amount of funds to all potentially eligible candidates, and if not, the Commission will disburse available funds on a pro rata or other equitable basis. The legally-required meeting for the Commission to make that determination will be scheduled to occur sometime in mid to late August, depending on the date the City Clerk announces candidate certifications.

The table below summarizes the potential breakdown of the number of candidates expected to run in the 2020 election, the maximum amount allowable per candidate under the law, and the estimated amount of money that will likely be available for each candidate based on the amount of money in the Fund, assuming all candidates would be eligible and opted into the program.

City Council District	Voluntary Expenditure Ceiling	Maximum Potential LPFA Amount for Each Candidate (if fully funded)	Number of Candidates Currently Campaigning	Estimated Amount Available to Each Candidate (if all participated)
1	153,000	45,900	4	\$6,954
3	153,000	45,900	7	
5	146,000	43,800	2	
7	148,000	44,400	9	

Below is a projected timeline of events for the LPF program:

Process	Details	Date
Nomination Period Begins	The Nomination Period opens 113 days before an election.	Monday, July 13, 2020
Nomination Period Ends	The Nomination Period closes 88 days before the election.	Friday, August 7, 2020
Nomination period extended	If the incumbent does not file for re-election, then the nomination period is extended for five days.	Wednesday, August 12, 2020
City Clerk Certification	The Office of the City Clerk certifies the names of all candidates to appear on the ballot (unless nomination period extended).	Varies depending on the incumbents' filings but it is usually conducted within a few days of the end of Nomination Period
Public Ethics Commission Determines Disbursement Plan	The Commission determines whether the election campaign fund will be adequate to provide the maximum amount of funds to	Not to exceed seven days after City Clerk certification

	potentially eligible candidates, and the Commission decides on a process for disbursement of available funds on a pro rata or other equitable basis.	(special PEC meeting must be set)
Potential Funds Redistribution by the Commission	The Commission may at any time revise the disbursement plan consistent with LPFA.	October 5, 2020, PEC Meeting (if needed)
Election Day	The day before the election is the last day to submit claims for reimbursement to the Commission.	Tuesday, November 3, 2020

This memorandum is for informational purposes in preparation for the Commission's next step of determining the allocation of campaign funds once the number of candidates is confirmed. That determination will be made at a special meeting, exact date to be determined, in mid-August. No Commission action is needed at this time.

DEADLINE: AUGUST 31, 2020

Recruitment Flyer

APPLY FOR A SEAT ON THE PUBLIC ETHICS COMMISSION

**BE A PART OF ACCOUNTABLE
GOVERNMENT!**

Want to learn more?
Visit: www.oaklandca.gov/pec

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<https://tinyurl.com/y3wyk25h>

For inquiries, please contact:
(510) 238-3593 or
ethicscommission@oaklandca.gov.

August 3, 2020, PEC Meeting Agenda Packet Pg. 107





PASSIONATE ABOUT GOVERNMENT INTEGRITY? JOIN OUR TEAM!

The Public Ethics Commission is an independent commission made up of Oakland residents and charged with ensuring fairness, openness, honesty and integrity in Oakland City government. The Commission has transformed significantly in recent years toward becoming a guiding light and a watchdog to ensure compliance with government ethics, campaign finance, lobbying, and transparency laws. The Commission:

- Educates residents and City staff on ethics-related issues
- Conducts investigations, audits and public hearings
- Imposes fines and penalties as part of enforcement activities
- Provides policy direction to Commission staff

HELP LEAD THE PUBLIC ETHICS COMMISSION TO EVEN GREATER IMPACT

Want to learn more?
Visit: www.oaklandca.gov/pec

Deadline: August 31, 2020
Apply online: <https://tinyurl.com/y3wyk25h>

For inquiries, contact: (510) 238-3593
or ethicscommission@oaklandca.gov



Public Ethics | CITY OF
OAKLAND

Commissioner Vacancy Announcement



CITY OF OAKLAND PUBLIC ETHICS COMMISSION

James E.T. Jackson (Chair)
Jill Butler
Michael MacDonald
Janani Ramachandran
Joseph Tuman
Jerett Yan

Whitney Barazoto, Executive Director

Public Ethics Commission Commissioner Vacancy Announcement August 2020

The City of Oakland Public Ethics Commission (PEC) is now accepting applications to fill two PEC-appointed Commissioner positions, as part of its seven-member volunteer citizen board. One vacancy is a special vacancy to begin in **September 2020 and will expire in January 2022**. The other vacancy will begin in **January 2021 and will expire in January 2024**.

Background

The Public Ethics Commission is a seven-member board of volunteers dedicated to the City Charter goal of ensuring *fairness, openness, honesty, and integrity* in City government. Guided by duties and authority set out by City ordinance, the Commission works to achieve its goals through a three-pronged approach that focuses on prevention, enforcement, and collaboration. Specifically, the following local laws are the foundation of the Commission's responsibilities in three general areas – campaign finance, ethics, and transparency:

- Oakland Government Ethics Act
- Oakland Campaign Reform Act
- Conflict of Interest Code
- Sunshine Ordinance
- Limited Public Financing Act
- Lobbyist Registration Act
- Oakland's False Endorsement in Campaign Literature Act

Commission Members

Each member of the Commission must be an Oakland resident who is registered to vote in Oakland. Three Commissioners are appointed respectively by the Mayor, City Attorney, and City Auditor. The remaining four are appointed by the full Commission on a rotating schedule. Once appointed, a Commissioner is expected to participate in monthly meetings and occasional subcommittee meetings to provide guidance to staff in the conduct of the Commission's business, make final decisions on enforcement matters, and serve as an adjudicative body/hearing officer (neutral judge) in cases that require an administrative hearing.

Commissioners are appointed for a term of 3 years, and during his or her tenure a Commissioner may not do any of the following:

1. Have an employment or contractual relationship with the City during the member's tenure and for one year after the date of separation;

Commissioner Vacancy Announcement

2. Be a registered Oakland lobbyist or be required to register as an Oakland lobbyist, or be employed by or receive gifts or other compensation from a registered Oakland lobbyist during the member's tenure and for one year after the date of separation;
3. Seek election to any other public office in a jurisdiction that intersects with the geographic boundaries of Oakland, or participate in or contribute to an Oakland municipal campaign;
4. Endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election.

Commissioners receive no compensation and may serve no more than two consecutive three-year terms.

Selection Process

Following the application deadline, a subcommittee of three Commissioners will review applications and conduct oral interviews of candidates in early to mid-November. The subcommittee will select the top several candidates who will be introduced and briefly interviewed by the full Commission at the Commission's meeting.

One term will begin **September 2020 and expire January 2022**. The second vacancy term begins **January 22, 2021 and expires January 21, 2024**.

Desired Skills and Abilities

Commissioners should represent a variety of backgrounds and professions so that the Commission, as a whole, provides a well-rounded perspective on Oakland City government, law, community building and engagement, leadership, program administration, enforcement, and policies related to campaign finance, ethics and transparency. Specifically, a Commissioner should be able to do the following:

- Read, analyze, and understand written information and make decisions based on the information
- Listen to public input, assess community needs, and make decisions about how to best accomplish the Commission's goals
- Understand the context in which the Commission operates within City government and the broader community
- Communicate orally during a public, televised meeting
- Collaborate effectively with other Commissioners, the public, City officials, and staff
- Interpret rules, laws and policies and objectively apply a rule to a particular set of facts
- Identify personal conflicts of interest or other factors that could lead to actual or perceived improper influence
- Serve with fairness, openness, honesty, and integrity
- Complete a *Form 700 – Statement of Economic Interests* annually, disclosing information such as one's financial interests in investments, property, income, and gifts (to view a copy of a Form 700, contact Commission staff or visit www.fppc.ca.gov)
- Adhere to all Commission-related laws and policies, including but not limited to the Oakland City Charter, Oakland Government Ethics Act, Oakland Sunshine Ordinance, Commission Complaint Procedures, and Commission Operations Policies (by-laws).
- Must attend at least one Public Ethics meeting before appointment. You can find a list of upcoming meetings at www.oaklandca.gov/pec.

Commissioner Vacancy Announcement

For More PEC Information

For more about the Public Ethics Commission, visit us online at www.oaklandca.gov/pec. We also suggest you attend a City Council meeting in person or watch one on local television (Channel 10). For more information about the Commission or this position, contact Whitney Barazoto at wbarazoto@oaklandca.gov or (510) 238-6620.

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION

Commissioner Application



Name: _____

Mailing Address: _____

Daytime Phone: _____ Evening Phone: _____

Email: _____ City Council District: _____

Are you an Oakland resident? Yes No Years of Residency in Oakland: _____

List any City of Oakland Boards or Commissions (including this Commission) on which you currently or have previously served:

Please answer yes or no to all the following questions:

1. Are you currently employed by the City or have any direct and substantial financial interest in any work, business, or official action by the City? Yes No
2. Are you currently or planning to seek election to any other public office, participate in, or contribute to an Oakland municipal campaign? Yes No
3. Are you currently or planning to endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election? Yes No
4. Are you an Oakland lobbyist or required to register as a lobbyist, or do you receive gifts or compensation from an Oakland lobbyist? Yes No
5. Have you attended a Public Ethics Commission meeting? Yes No If yes, when? _____
6. List any languages other than English that you speak fluently. _____
7. How did you hear about this vacancy? _____

List the names, addresses and telephone numbers of two references:

1. Name: _____
Address: _____
Phone: _____ Email: _____
2. Name: _____
Address: _____
Phone: _____ Email: _____

By signing below, I certify that all of the information included in this application and supporting materials is true to the best of my knowledge. I also understand that this application packet is a public record, subject to public inspection, and that if I proceed to the final interview with the Commission, the packet will be distributed publicly as part of the selection process.

Signature: _____ Date: _____

See Supplemental Questions on next page →

Supplemental Questions

On a separate page, please answer the following four questions:

1. **Why do you want to serve on the Public Ethics Commission?**
2. **What skills and experience will you bring to the Commission?** (Include any governmental experience, activities with civic and business organizations, neighborhood groups, or any other experience that would contribute to your effectiveness as a Commissioner.)
3. **What issues, projects, or goals would you like to pursue while serving on the Commission?**
4. **What do you think are the City's most pressing ethics, campaign finance, or transparency challenges?**
5. **What else would you like the subcommittee to know as your application is considered?**

Applications must include the following materials:

1. Signed Application.
2. Answers to the Supplemental Questions
3. Your resume

Applications must be submitted **by August 31, 2020** by email or fax to PEC staff:

Public Ethics Commission
Attn: Whitney Barazoto
1 Frank Ogawa Plaza, Room 104
Oakland, CA 94612
ethicscommission@oaklandca.gov
Fax: (510) 238-3315

For questions, please call (510) 238-3593.
Web: www.oaklandca.gov/pec

Disclosure Report



James E.T. Jackson, Chair
Nayeli Maxson Velázquez, Vice-Chair
Jill M. Butler
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: July 24, 2020
RE: Disclosure and Engagement Report for the August 3, 2020, PEC Meeting

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

Filing Officer/Disclosure

A summary of campaign and lobbying activity during the first half of 2020 will be included in the next Disclosure report when the data is available.

Campaign Finance – Mid-July marked the beginning of the nominations process for the ten local positions on Oakland's November ballot. Forty-eight candidates have now submitted statements of intent to run for office, and 27 have registered campaign committees. July 31 marks the first campaign finance deadline in 2020 for all registered committees with activity between January 1 and June 30. All committees received deadline notifications, and staff is reaching out to new committees to ensure they are prepared to file their reports electronically.

Commission staff successfully implemented changes in advance of the July 31 filing deadline to streamline the procedures for submitting campaign statements and reports and approving electronic signatures. The changes allow all campaign filings to be submitted without any in-person contact, which is particularly important during the COVID-19 pandemic but will continue indefinitely. In addition, updates to the City's electronic filing system, NetFile, were deployed to simplify the process for submitting campaign filings online.

Lobbyist Registration and Reporting – The second quarter lobbyist activity report deadline is on July 30, 2020. The new Lobbyist Registration and Reporting app was announced to lobbyists in early July. Since the announcement, Commission staff have been providing support to lobbyists as they create their new accounts and first reports, and the transition to the new system is proceeding smoothly.

Behested Payment¹ Disclosure – During the second quarter, the Mayor’s Office reported 24 behested payments totaling \$13,541,780 in solicited contributions for local charitable programs. A total of \$16,265,780 in contributions have been reported this year.

Behested payment reports are available for public viewing through the [Public Portal for Campaign Finance and Lobbyist Disclosure](#). A search for filings by a public official’s name will return any behested payment reports in the database submitted by that official (identified as Form 803).

Advice and Engagement

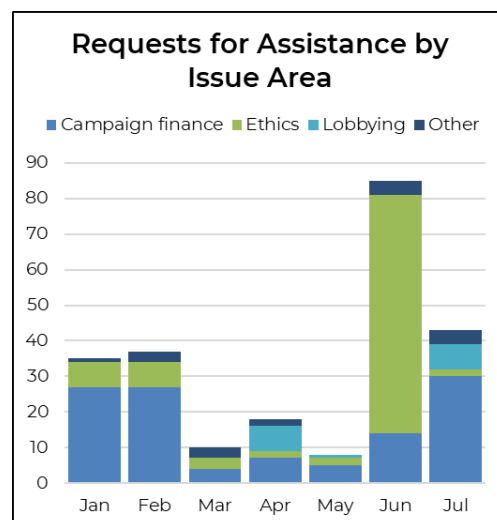
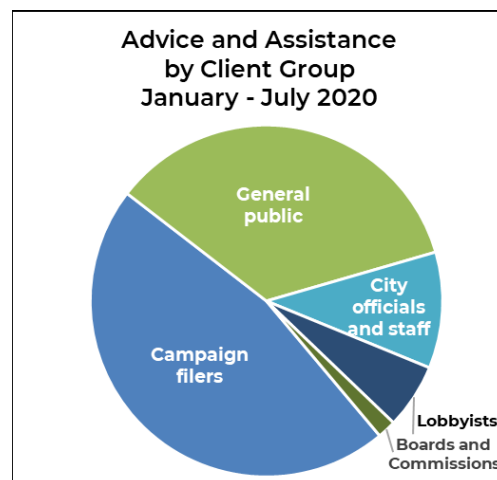
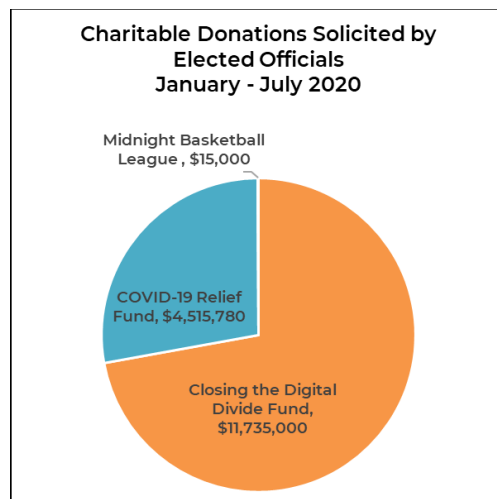
Advice and Assistance – Commission staff responded to 43 requests for advice and assistance during the month of July. Sixty-five percent were related to campaign rules, reporting requirements, and access to candidate disclosures. Commission staff has fulfilled 236 phone advice calls and requests for assistance this year.

Candidates and Campaigns – The nomination period for candidates seeking to qualify for the November 2020 ballot commenced on July 13 and ends on August 7. Commission staff provided the Office of the City Clerk with materials to provide with the candidate nomination packet including our candidate checklist and LPF Program informational flyer.

As part of our continuing campaign education efforts, staff issues monthly advisories to ensure that candidates and committees are aware of local rules during this election season. On July 8, staff issued an advisory regarding rules specific to ballot measure committees to inform treasurers and committees about state and local disclosure requirements. Upcoming advisories include officeholder committee rules and participation in the Limited Public Financing (LPF) program.

Ethics – On June 26, Staff conducted an ethics training for 60 new employees of the Oakland Parks, Recreation, and Youth Development Department during their summer staff orientation.

After a four-month pause due to COVID-19, the Department of Human Resources Management resumed their new employee orientation (NEO) program. Participation in the NEO provides new



¹ “Behested payments” are payments made to a charity upon the solicitation of an elected official. Behested Payment Reports must be filed with the campaign filing officer within 30 days on FPPC Form 803.

employees with an introduction to the PEC and overview of the Government Ethics Act (GEA). On July 15, staff trained a total of 16 new employees on GEA provisions.

On July 29, PEC staff will conduct a live Government Ethics Training for Form 700 Filers via Zoom. The training is being hosted by the Department of Human Resources and will serve as an alternative for employees that have not completed the PEC's online training.

Newsletter – The latest edition of the PEC newsletter [Public Trust](#) was published in July. The July newsletter covers a range of topics including campaign rules, use of city resources, and PEC program activities.

Social Media – Communications in July focused on raising awareness of filing deadlines and online resources for candidates and lobbyists.

Illuminating Disclosure Data

Open Disclosure – This month OpenDisclosure volunteers finalized a new election summary page with a campaign finance overview for the election. Data points include total contributions reported, the three most expensive races, the candidates with the largest proportion of small contributions, and a breakdown of contributions overall by source. Campaign finance data for the first half of 2020 will be available on the site after the July 31st campaign statement deadline.

Work on the [OpenDisclosure](#) campaign finance app continues as we wait for the nominations period to close and the November ballot to be finalized. OpenDisclosure is a project of OpenOakland volunteers in partnership with the Public Ethics Commission.

Enforcement Report



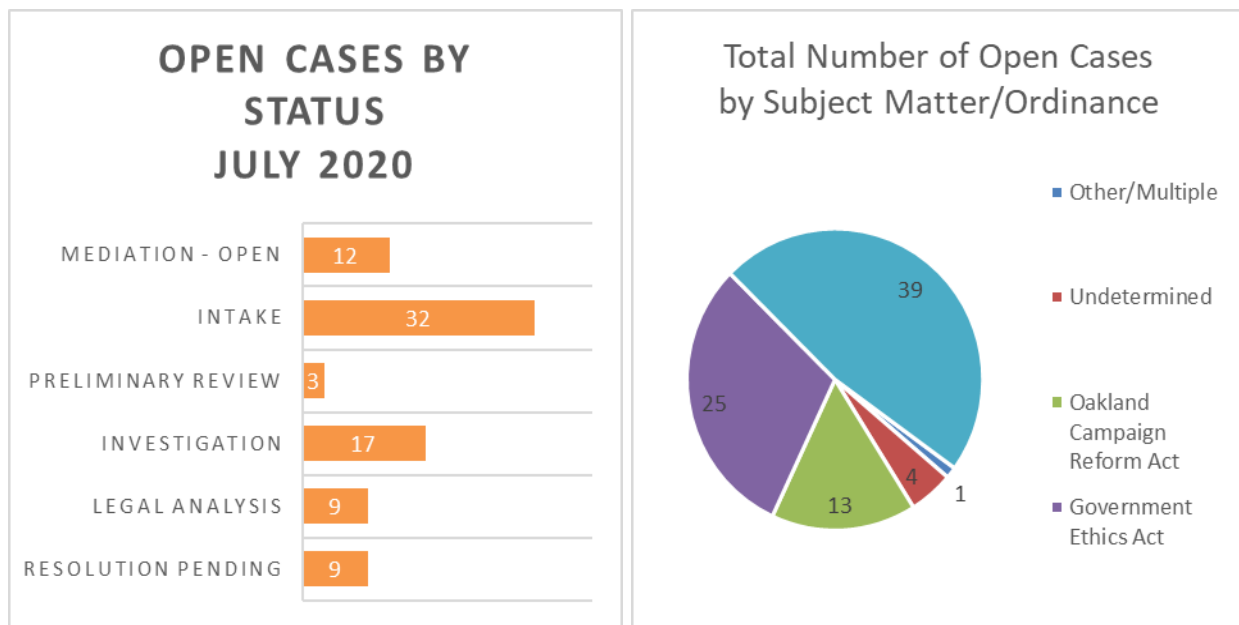
James E.T. Jackson, Chair
Nayeli Maxson Velázquez, Vice Chair
Jill M. Butler
Michael MacDonald
Janani Ramachandran
Joseph Tuman
Jerett Yan

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Kellie Johnson, Enforcement Chief
DATE: July 22, 2020
RE: Enforcement Program Update for the August 3, 2020, PEC Meeting

Current Enforcement Activities:

Since the last Enforcement Program Update on July 6, 2020, Commission staff received 22* complaints. This brings the total Enforcement caseload to 64 enforcement and mediation cases: 35 matters in the intake or preliminary review stage, 17 matters under active investigation, 9 matters under post-investigation analysis, 9 matters in settlement negotiations or awaiting an administrative hearing, and 12 ongoing public records request mediations.



*17 complaints regarding the June 23, 2020 City Council Budget meeting.

Summary of Cases:

Since the last Enforcement Program Update in July 2020, the following status changes occurred:

1. *In the Matter of Oakland City Councilmember Loren Taylor* [Mediation Summary] (Case No. M2020-06). On February 20, 2020, the Commission received a request for mediation from the Requestor alleging that the Office of City Councilmember Loren Taylor failed to provide responsive documents to a public records request. The Requester initiated their respective public records request in October seeking copies of email communications to or from Councilmember Taylor regarding the proposed Howard Terminal Ballpark, the department did not provide a response. Staff initiated the Mediation process and on July 17, 2020, Councilmember Taylor's Staff uploaded responsive documents and closed the public records request. Staff recommends that the Commission close the mediation without further action. (See Action Items)

Executive Director's Report



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

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
DATE: July 24, 2020
RE: Executive Director's Report for the August 3, 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.

Public Ethics Commission Budget for Fiscal Year 2020-21

On June 23, 2020, City Council adopted a budget that included, among cuts across departments, minor reductions to the PEC's operating budget. However, the Commission's salary budget, positions, and the \$100,000 one-time allocation that was provided in the adopted FY 2019-21 two-year budget plan remain intact with the newly adopted City budget. **Update: no changes were made to the PEC's budget upon City Council's discussion of additional budget amendments at its July 21, 2020, meeting.**

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 merely allows the PEC the authority to investigate complaints against commissioners at the PEC's discretion. The measure will go before the voters on the November 3, 2020, ballot.

PEC Commissioner Recruitment

With Commissioner Maxson Velázquez's early departure from the PEC this past month, there are now two vacancies for the PEC to fill in the coming months. The first vacancy will begin September 1 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. Recruitment is now open until August 31, 2020. Recruitment materials are posted with the agenda for our August 3 PEC meeting and will be distributed widely via the PEC's usual channels, including social media, and through direct outreach with partner organizations and individuals who have expressed prior interest.

Attachment: Commission Programs and Priorities

PUBLIC ETHICS COMMISSION
Programs and Priorities 2019-20

Program	Goal	Desired Outcome	Key Projects for 2019-20
Lead/ Collaborate (Policy, Systems, Culture)	PEC facilitates changes in City policies, laws, systems, and technology and leads by example to ensure fairness, openness, honesty, integrity and innovation.	Effective campaign finance, ethics, and transparency policies, procedures, and systems are in place across City agencies	<ol style="list-style-type: none"> 1. Adoption of PEC-drafted City Ticket Distribution policy and process changes 2. Campaign Finance/Public Financing Act Project to expand participation in the campaign process 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 v 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