



## DRAFT

Commissioners: Ryan Micik (Chair), Francis Upton IV (Vice-Chair), Alea Gage, Charlotte Hill, Vincent Steele, and Karun Tilak.

Commission Staff to attend: Nicolas Heidorn, Executive Director; Simon Russell, Enforcement Chief; Suzanne Doran, Program Manager; Alex Van Buskirk, Lead Analyst; Melanie Newcomb, Commission Assistant.

Legal Counsel: Christina Cameron, Partner, Devaney Pate Morris & Cameron, LLP.

## PUBLIC ETHICS COMMISSION SPECIAL MEETING MINUTES

### PRELIMINARY ITEMS

#### **1. Roll Call and Determination of Quorum.**

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

Members present: Chair Micik, Vice Chair Upton IV, Steele, and Tilak.

Members absent: Gage, Hill.

Staff present: Nicolas Heidorn, Simon Russell, Suzanne Doran, Alex Van Buskirk, Melanie Newcomb.

Legal Counsel: Christina Cameron.

#### **2. Staff and Commission Announcements.**

There were no announcements.

Public Comment: None.

#### **3. Open Forum.**

Public Comment: None.

### ACTION ITEM

#### **4. Approval of Commission Meeting Draft Minutes.**



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**a. April 10, 2024, Regular Meeting Minutes**

Vice Chair Upton moved, seconded by Tilak, to approve the April 10, 2024, Public Ethics Commission Regular Meeting Minutes.

Ayes: Upton IV, Steele, Tilak.

Noes: None.

Abstain: Micik.

Vote: 3-0.

Public Comment: None.

*The Commission re-voted on this item after Commissioner Gage joined the meeting at 6:35 p.m.*

Vice Chair Upton moved, seconded by Tilak, to approve the April 10, 2024, Public Ethics Commission Regular Meeting Minutes.

Ayes: Upton IV, Gage, Steele, Tilak.

Noes: None.

Abstain: Micik.

Vote: Passed 4-0.

Public Comment: None.

**b. May 22, 2024, Special Meeting Minutes**

Vice Chair Upton moved, seconded by Steele, to approve the May 22, 2024, Public Ethics Commission Special Meeting Minutes.

Ayes: Micik, Upton IV, Steele.

Noes: None.



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Abstain: Tilak.

Vote: 3-0.

Public Comment: None.

*The Commission re-voted on this item after Commissioner Gage joined the meeting at 6:35 p.m.*

Vice Chair Upton moved, seconded by Steele, to approve the May 22, 2024, Public Ethics Commission Special Meeting Minutes.

Ayes: Micik, Upton IV, Gage, Steele.

Noes: None.

Abstain: Tilak.

Vote: Passed 4-0.

Public Comment: None.

## **INFORMATION ITEMS**

### **5. Goldman Student Presentation on Transparency**

UC Berkeley Goldman School of Public Policy students Chelsea Hall, Kelsey Perez, D. Azarmi, and Ryan Manriquez presented on, and Commissioners discussed, the findings in their report “Open By Default: A Best Practices Analysis for Meaningful Transparency in the City of Oakland.”

Public Comment: Ralph Kanz.

A full recording of public comments is available in the meeting video. Video recordings are posted on the meeting webpage, which may be found at [www.oaklandca.gov/pec](http://www.oaklandca.gov/pec).

## **INFORMATION ITEMS**

### **6. Disclosure and Engagement**



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Lead Analyst Alex Van Buskirk provided, and Commissioners discussed, a summary of compliance with disclosure requirements, education and advice, general outreach, and data illumination activities since the last regular Commission meeting.

Public Comment: None.

### 7. Enforcement Program

Enforcement Chief Simon Russell provided, and Commissioners discussed, a summary of the Commission's enforcement process, caseload, enforcement-related litigation, and case closures or dismissals.

Public Comment: None.

### 8. Executive Director's Report

Executive Director Nicolas Heidorn reported, and Commissioners discussed, on overall priorities and PEC activities, such as budget, staffing, and PEC legislative and policy initiatives not covered in other staff reports.

Public Comment: Ralph Kanz.

## ACTION ITEMS

### 9. Probable Cause Report: In the Matter of Michael Dabney (PEC # 23-28)

On October 2, 2023, the PEC opened an investigation into allegations that a mobile food vendor named Michael Dabney attempted to bribe a City inspector. Enforcement Chief Simon Russell presented on, and Commissioners discussed, the investigation and recommended that the Commission (1) find probable cause that the violations described in the Investigation Summary occurred, and (2) order that the administrative hearing be held before an outside hearing officer.

Chair Micik moved, seconded by Steele, to find there is probable cause to believe that the Respondent, Michael Dabney, committed the violations described in counts 1 and 2 of the Probable Cause Report.

Ayes: Micik, Upton IV, Gage, Steele, and Tilak.



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Noes: None.

Vote: Passed 5-0.

Chair Micik moved, seconded by Upton, that staff return with a nominee or potential list of nominees to serve as the hearing officer in this case to be able to schedule a hearing.

Ayes: Micik, Upton IV, Gage, Steele, and Tilak.

Noes: None.

Vote: Passed 5-0.

Public Comment: None.

**10. Proposed Settlement Agreement: In the Matter of Californians For Independent Work, Sponsored by Lyft, Inc.; Lyft Inc. (PEC # 20-41.2)**

On February 22, 2021, the PEC opened an investigation into allegations that a campaign committee called “The Committee For An Affordable East Bay” had been a candidate-controlled committee and failed to comply with all of the necessary laws concerning candidate-controlled committees, including the prohibition on receiving contributions from City contractors at certain times. Respondents were a City contractor and its sponsored committee, who made a contribution to The Committee For An Affordable East Bay. Respondents have agreed to settle this matter with regard to their own alleged actions, without admitting liability. Enforcement Chief Simon Russell presented on, and Commissioners discussed, the settlement agreement. In addition, Joel Aurora of Lyft answered questions regarding the settlement agreement.

Commissioner Gage moved, seconded by Tilak, to approve the proposed settlement agreement in the amount of \$50,000.

Ayes: Micik, Upton IV, Gage, Steele, and Tilak.

Noes: None.

Vote: Passed 5-0.

Public Comment: Joel Aurora, Ralph Kanz.



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**11. Proposed Settlement Agreement (Streamlined): In the Matter of Michelle Phillips (PEC # 24-04).**

On March 15, 2024, the PEC initiated a proactive complaint alleging that Inspector General Michelle Phillips received a gift valued at \$300 from Campaign Zero, which was in excess of the local gift limit of \$250. Respondent has agreed to settle this matter under the PEC's streamlined settlement program. Due to Respondent's senior-level status, this streamlined agreement requires Commission approval under PEC Complaint Procedures. Enforcement Chief Simon Russell presented on, and the Commission discussed, the settlement agreement.

Chair Micik moved, seconded by Upton, to approve the settlement agreement, impose a financial penalty in the amount of \$50, and order Respondent to take a diversion training concerning the local gift rules.

Ayes: Micik, Upton IV, Gage, Steele, and Tilak.

Noes: None.

Vote: Passed 5-0.

Public Comment: None.

**12. Case Closure Recommendation: In the Matter of Jesse Boudart (PEC # 23-38)**

On February 2, 2024, the PEC opened an investigation into allegations that City employee Jesse Boudart misused City resources and his City position when he used his City email account to campaign for election to a board seat with a private organization. Enforcement Chief Simon Russell presented on, and the Commission discussed, the case closure recommendation.

Commissioner Gage moved, seconded by Upton, to adopt the staff recommendation that the Commission find (1) that no violation of any of the PEC's laws occurred, and (2) that Respondent be issued an advisory letter.

Ayes: Micik, Upton IV, Gage, Steele, and Tilak.



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Noes: None.

Vote: Passed 5-0.

Commissioner Tilak requested that Chief Russell provide a copy of the advisory letter to the Commission.

Public Comment: None.

### **13. Form 700 Enforcement Update and Closure Recommendation (PEC ## 23-16.1, 23-16.2, 23-16.5, 23-16.6, 23-16.7, 24-05.2, 24-05.7, 24-05.9, 24-05.15, 24-05.17, 24-05.20, 24-05.25, 24-05.48, 24-05.53, 24-05.64)**

Enforcement Chief Simon Russell presented on, and Commissioners discussed, an update on PEC staff's enforcement efforts regarding alleged non-filers of the 2022 Annual Form 700 (PEC # 23-16) and 2023 Annual form 700 (PEC #24-05)

Commissioner Tilak moved, seconded by Steele, to approve the staff recommendation closing the cases against alleged non-filers with valid reasons for non-filing.

Ayes: Micik, Upton IV, Gage, Steele, and Tilak.

Noes: None.

Vote: Passed 5-0.

Public Comment: None.

### **14. Proposed Amendment to PEC Penalty Guidelines re: "Ability to Pay"**

Enforcement Chief Simon Russell presented, and the Commission discussed, staff's proposed amendment to the PEC's Penalty Guidelines expressly allowing for the avoidance of undue financial hardship to respondents as a mitigating factor when determining appropriate fines.

Vice Chair Upton moved, seconded by Steele, to approve the staff recommendation to amend to the PEC's Penalty Guidelines expressly allowing for the avoidance of undue financial hardship to respondents as a mitigating factor when determining appropriate



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fines.

Ayes: Micik, Upton IV, Gage, Steele, and Tilak.

Noes: None.

Vote: Passed 5-0.

Public Comment: None.

### **DISCUSSION ITEMS**

#### **15. Reports on Subcommittees and Commissioner Assignments.**

##### **a. Public Outreach 2023 Commissioner Recruitment, Enforcement Resources, Ethics Complaints, and Campaign Finance Subcommittee.**

Steele shared there were no updates though noted the Subcommittee would be meeting soon.

Public Comment: None.

##### **b. Charter Review Subcommittee.**

Chair Micik shared the Subcommittee has met several times since the last meeting to direct strategy and adjust to the political environment to create something that can pass through City Council and eventually be approved by votes. The Subcommittee will continue its work until the current charter amendments are resolved by the City Council.

In addition, Chair Micik noted both Subcommittees are ending in the near future and there is an opportunity to establish new Subcommittees.

Public Comment: None.

### **INFORMATION ITEMS**

#### **16. Future Meeting Business.**

Tilak noted that it may be helpful to have the IT Department speak to the Commission on public record requests.



CITY OF OAKLAND  
PUBLIC ETHICS COMMISSION  
One Frank Ogawa Plaza (City Hall)  
Regular Commission Meeting  
Hearing Room 1  
Wednesday, June 12, 2024  
6:30 p.m.



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Public Comment: None

The meeting adjourned at 9:53 p.m.