



# Item 11a - Executive Director's Report

Ryan Micik, Chair  
Charlotte Hill, Vice Chair  
Alea Gage  
Arvon J. Perteet  
Vincent Steele  
Francis Upton IV

Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
FROM: Nicolas Heidorn, Executive Director  
DATE: June 30, 2023  
RE: Executive Director's Monthly Report for the July 12, 2023, PEC Meeting

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This memorandum provides an overview of the Public Ethics Commission's (PEC or Commission) significant activities not included in other program reports since the last regular meeting. The attached overview of Commission Programs and Priorities includes the ongoing goals and key projects for 2023 for each program area.

## Budget

In June, Commission staff met with Councilmembers and their staff to request that the Proposed Budget be amended to provide a pilot of the Democracy Dollars program limited to just Council Districts in 2024. Staff also advocated for additional staff resources, regardless of whether a pilot is funded, given the increased demand in all program areas.

On June 26, the City Council adopted the Fiscal Year 2023-2025 Budget. The adopted Budget does not fund the full Democracy Dollars Program or a pilot, but does provide for one additional staff and additional resources to begin the work of Measure W implementation. Budget highlights for the PEC include:

- Maintains existing PEC staffing;
- Cuts Democracy Dollars voucher funding;
- Provides \$525,000 in Measure W startup costs;
- Funds the Measure W Program Manager position beginning August 1, 2023;
- Provides \$50,000 in one-time funding for candidate education; and
- Provides \$155,000 in discretionary spending.

## Lobbyist Registration Fee & Late Filing Penalties

At its April meeting, the Commission authorized PEC staff to request that the City Council include the following fees in the Master Fee Schedule to take effect January 2024:

1. An annual lobbyist registration fee of \$500.
2. A late filing fee of \$10 per day after the filing deadline until the form is filed for lobbyist registration and lobbyist reports.

Both proposed fees were included in the Master Fee schedule, which the City Council adopted on June 20.

Prior to the fee's implementation in January of 2024, staff will bring back to the Commission a proposed amendment to the Lobbyist Registration Act reflecting the adopted fee and a proposed registration fee waiver policy for lobbyists that are employees or representatives of 501(c)(3) nonprofit organizations and/or community-based organizations that can demonstrate hardship.

## City Attorney and City Auditor Salary Adjustment

In 2022, the voters adopted Measure X, which among other provisions assigns to the Commission the responsibility of setting the salaries of the City Attorney and City Auditor to “provide for competitive compensation and equitable alignment” for these offices. At its April meeting, the Commission adopted adjusted salaries for the City Attorney and City Auditor for the first time. The Commission raised the City Attorney’s salary from \$243,618.72 to \$306,990.63 and the City Auditor’s salary from \$181,203.12 to \$213,137.51.

On June 20, the City Council introduced for first reading an amendment to the Salary Ordinance to adopt the respective salaries set by the Commission. Final passage (i.e. second reading) of the Ordinance will occur on July 18.

## Proposed Ordinance for City Attorney Concurrent Enforcement Jurisdiction

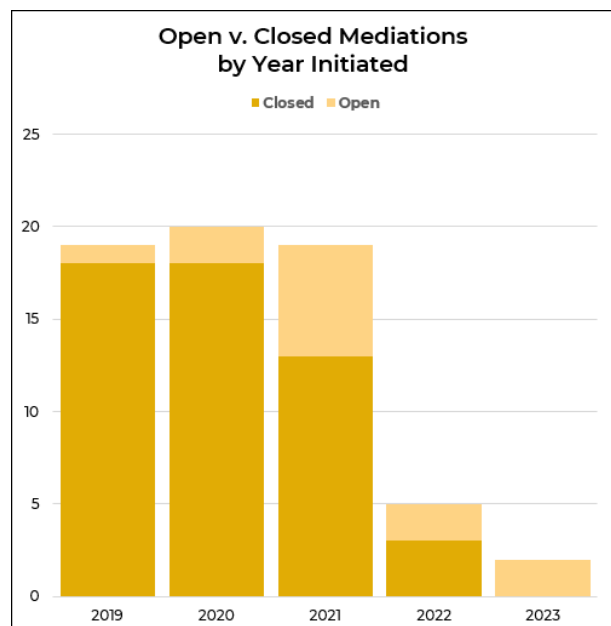
In June the City Attorney proposed an ordinance to the City Council which would grant her office authority to enforce any City law, which might include those laws where the City Charter or City Ordinance specifically designate the Commission as the enforcement body. The proposed ordinance specifies that the City Attorney’s enforcement powers would be in addition to any potential existing administrative remedy.

In consultation with the Chair, PEC Staff shared concerns with this proposal with the City Attorney. Among other complications, concurrent jurisdiction could undermine the Commission’s intended role as the lead enforcement agency of the City’s ethics and transparency laws and might result in the Commission and City Attorney enforcing the same law against the same party in different ways. In response to these concerns, and working with PEC Staff, the City Attorney amended the proposed ordinance to clarify that, as to laws the PEC enforces, the proposed ordinance “neither augments nor amends” the authority already granted to the City Attorney to enforce those laws; in other words, the ordinance maintains the existing enforcement status quo as to PEC-enforced laws.

The City Council introduced for first reading the proposed ordinance, as amended. Final passage (i.e. second reading) of the Ordinance will occur on July 18.

## Mediation Program

Pursuant to the Oakland Sunshine Ordinance, the Commission conducts mediation of public records requests made by members of the public to City departments for records within the department’s control. The PEC has 13 open mediations, down from 16 last month, and 24 the month before. Thirteen mediations have been completed this year, including three this month.



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Following a mediation, Commission staff provides a written summary of the mediation to the Commission and can also make recommendations for further Commission action. Mediation summaries for the following three mediations, conducted by staff and subsequently closed this past month, are attached:

1. In the Matter of the Planning and Building Department (Case No. M2020-10)
2. In the Matter of the Police Department (Case No. M2021-13)
3. In the Matter of the City Clerk and Public Works Department (Case No. M2022-05)

Additional Attachment: Commission Programs and Priorities.

**Item 11a - Executive Director's Report**  
**PUBLIC ETHICS COMMISSION**  
**Programs and Priorities 2023**

<b>Program</b>	<b>Goal</b>	<b>Desired Outcome</b>	<b>Program Activities</b>	<b>2023 Major Projects</b>
<b>Lead/ Collaborate (Policy, Systems, Culture)</b>	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	<ul style="list-style-type: none"> <li>○ Lead Measure W implementation</li> </ul>	<ul style="list-style-type: none"> <li>○ Public Records Performance Tool</li> <li>○ Lobby Registration Act amendment to incorporate new fees and waiver policy</li> <li>✓ GSPP project re contractor pay-to-play restrictions and improving disclosure</li> </ul>
<b>Educate/ Advise</b>	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.	<ul style="list-style-type: none"> <li>● Regular ethics training</li> <li>● Information, advice, and technical assistance</li> <li>● Targeted communications to regulated communities</li> <li>● New trainings as needed for diversion</li> </ul>	<ul style="list-style-type: none"> <li>○ Develop Measure W/ Democracy Dollars training resources for candidates</li> <li>○ Collaboration with Clerk and HR on process improvements for ethics onboarding/exit and Form 700 compliance</li> <li>✓ Public Records training</li> </ul>
<b>Outreach/ Engage</b>	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.	<ul style="list-style-type: none"> <li>● Public Records mediations</li> <li>● Commissioner-led public outreach</li> <li>● Outreach to client groups – targeted training and compliance</li> <li>● PEC social media outreach</li> </ul>	<ul style="list-style-type: none"> <li>○ Develop content to reflect Measure W changes and Democracy Dollar Program</li> <li>○ Develop Democracy Dollars Community Engagement plan</li> <li>○ Review and update mediation procedures/staff manual</li> </ul>
<b>Disclose/ Illuminate</b>	<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>	<ul style="list-style-type: none"> <li>● Monitor compliance (campaign finance/lobbyist/ticket use)</li> <li>● Proactive engagement with filers</li> <li>● Technical assistance</li> <li>● Assess late fees/refer non-filers for enforcement</li> <li>● Maintain data assets</li> </ul>	<ul style="list-style-type: none"> <li>○ Democracy Dollars admin system development</li> <li>○ Democracy Dollars performance tracking and public data development</li> <li>○ Updates to Ticket Distribution (Form 802) database</li> </ul>

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Program	Goal	Desired Outcome	Program Activities	2023 Major Projects
<b>Detect/ Deter</b>	PEC staff proactively detects potential violations and efficiently investigates complaints of non-compliance with laws within the PEC's jurisdiction.	Public servants, candidates, lobbyists, and City contractors are motivated to comply with the laws within the PEC's jurisdiction.	<ul style="list-style-type: none"> <li>• Process and investigate complaints</li> <li>• Initiate proactive cases</li> <li>• Collaborate/coordinate with other government law enforcement agencies</li> </ul>	<ul style="list-style-type: none"> <li>○ Digital complaint form/mediation request</li> <li>○ Improve Enforcement database</li> </ul>
<b>Prosecute</b>	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.	<ul style="list-style-type: none"> <li>• Prioritize cases</li> <li>• Conduct legal analyses, assess penalty options</li> <li>• Negotiate settlements</li> <li>• Make recommendations to PEC</li> </ul>	<ul style="list-style-type: none"> <li>○ Resolve 2016 and 2017 case backlog</li> <li>○ Review/revise policies for release of public information and election-related complaints</li> <li>○ Develop internal Enforcement staff manual</li> </ul>
<b>Administration/ Management</b>	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.	<ul style="list-style-type: none"> <li>• Annual Report</li> <li>• Budget proposal</li> <li>• Ongoing professional development and staff reviews</li> <li>• Fill staff vacancies</li> <li>• Commissioner onboarding</li> </ul>	<ul style="list-style-type: none"> <li>○ 2023 – 2025 strategic plan preparation/retreat</li> <li>✓ Develop process for City Attorney and City Auditor Salary Adjustment and adopt resolution for Council</li> </ul>