

Item 4a - Meeting Minutes

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Hearing Room 1
Wednesday, August 9, 2023
6:30 p.m.

DRAFT



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

Commission Staff to attend: Nicolas Heidorn, Executive Director; Suzanne Doran, Lead Analyst; Chris Gonzales, Commission Assistant; Ana Lara-Franco, Commission Analyst; Simon Russell, Enforcement Chief.

City Attorney Staff: Trish Shafie, Deputy City Attorney.

PUBLIC ETHICS COMMISSION REGULAR MEETING MINUTES

1. Roll Call and Determination of Quorum.

The meeting was called to order at 6:31 p.m.

Members present: Micik, Hill, Gage, Upton IV, Perteet and Steele.

Staff present: Nicolas Heidorn, Suzanne Doran, Chris Gonzales, Simon Russell.

City Attorney Staff: Tricia Shafie.

2. Staff and Commission Announcements.

Micik announced that the Public Ethics Commission (PEC) will have its annual PEC Retreat on August 25, 2023. The PEC will be taking a recess in September, so the regular PEC meeting will be cancelled.

3. Open Forum.

Public Comment: David Shor.

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.

ACTION ITEMS

4. Approval of Commission Meeting Draft Minutes.

Hill moved, and Steele seconded to approve the July 12, 2023, minutes.

Ayes: Hill, Gage, Micik, Upton IV, Perteet, Steele.

Noes: None.

Vote: Passed 6-0

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Public Comment: None.

5. Amendments to the Lobbyist Registration Act.

Executive Director Nicolas Heidorn presented staff's proposal that the PEC recommend that the City Council amend the Lobbyist Registration Act (LRA) to incorporate the annual registration fee recently adopted in the Master Fee Schedule; waive or reduce the annual registration fee for some lobbyists; place a cap on lobbyist report late filing fees; modify the quarterly lobbyist report filing schedule; require that lobbyists attend a training on the LRA; authorize the PEC to require additional information in quarterly reports; and other changes. Director Heidorn noted an error in the chart on page 11 of the staff report, which indicated that the lobbyist registration fee for lobbyists employed by small businesses or organizations would be reduced to \$200, when the proposal is for the fee to be reduced to \$100.

Director Heidorn also proposed the following amendment to the recommended draft ordinance language:

In Subsection D of Section 3.20.045, delete the following sentence: "Failure to file the signed declaration required by this section within 60 days of the local governmental lobbyist's initial registration shall constitute a violation of this Act." so that that subsection as amended reads as follows:

D. The Public Ethics Commission may invalidate a registration for failure to comply with this section.

Commissioners discussed the proposed recommendations.

Commissioner Perteet moved and Hill seconded a motion to approve the staff recommendation as stated in the agenda packet, with the additional changes proposed by Director Heidorn at the meeting relating to lobbyist training, and also amending the proposal to allow lobbyists employed by 501 (c) (4) organizations with less than \$750,000 in annual revenue to qualify for a lobbyist registration fee waiver on the same basis as lobbyists employed by 501 (c) (3) organizations with less than \$750,000 in annual revenue.

Ayes: Gage, Perteet.

Noes: Micik, Hill, Steele, and Upton IV

Vote: Failed 2-4

Public Comment: None.

Micik moved and Upton IV seconded a motion to adopt the staff recommendation for the

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amendment to the LRA with the additional change recommended by Director Heidorn at the meeting.

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

Noes: Perteet.

Vote: Passed 5-1.

Public Comment: None.

6. Limited Financing Act of 2024.

Director Heidorn presented the staff proposal that the Commission adopt a resolution recommending to the City Council that it establish a limited campaign public financing program in an amount not to exceed \$155,000 for the 2024 election cycle only, as well as to authorize the PEC to pilot a voter guide in the 2024 election cycle.

Director Heidorn noted that there was a typo in the draft ordinance language and recommended the following change to Exhibit A of the Resolution:

For Exhibit A, in Section 1, renumber the second Section 3.13.260 with the Section title “Sunset” to be Section 3.13.265.

Director Heidorn stated that the City Attorney’s office had advised the PEC that the PEC is already authorized under existing law to create a voter guide without the proposed amendments. Based on that, Director Heidorn recommended amending the resolution and proposed draft language in Exhibit A to remove reference to a voter guide, as follows:

1. For the caption of the Resolution, delete the phrase “, AND ADDING OAKLAND MUNICIPAL CODE SECTION 3.15.050(F) (THE OAKLAND FAIR ELECTIONS ACT) TO AUTHORIZE THE COMMISSION TO CREATE A VOTER GUIDE” so that the caption as amended reads as follows:

“RESOLUTION RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE ADDING OAKLAND MUNICIPAL CODE CHAPTER 3.13 (THE LIMITED PUBLIC FINANCING ACT OF 2024) TO TEMPORARILY RESTORE PUBLIC FINANCING, OR A SUBSTANTIVELY SIMILAR ORDINANCE”

2. For the Resolution, delete the following Whereas clauses in their entirety, which are the third to last and second to last Whereas clauses:

“WHEREAS, the Commission further finds that authorizing the Commission to create a voter guide furthers the purposes of the Oakland Fair Elections Act by providing registered voters with information which may assist them in assigning their vouchers and voting; and”

“WHEREAS, the Commission finds that authorizing the Commission to create

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a voter guide furthers the purposes of expanding public participation in the local democratic process, empowering all Oakland residents with an opportunity to engage meaningfully in the campaign process, enabling candidates to communicate their views and positions adequately to the public, and assisting residents with making an informed decision about each candidate; and”

3. For the Resolution, amend the last Whereas clause to delete the phrase “and authorizing the Public Ethics Commission to create a voter guide” so that the last Whereas clause as amended reads as follows:

“WHEREAS, the Commission recommends that the City Council adopt an ordinance temporarily restoring a limited public financing program for the 2024 election;”

4. For the Resolution, amend the first Resolved clause by deleting phrase “and authorizing the Public Ethics Commission to create a voter guide” so that the first Resolved clause as amended reads as follows:

“RESOLVED, that the Commission hereby recommends that the City Council adopt an ordinance temporarily restoring a limited public financing for the 2024 election; and be it”

5. For the Resolution, amend the last Further Resolved clause by deleting the phrase “and adding Subsection (F) to Section 3.15.050 of the Oakland Municipal Code” and the comma following that phrase, so that the last Further Resolved clause as amended reads as follows:

“FURTHER RESOLVED, that, to implement this recommendation, the Commission hereby recommends that the City Council adopt an ordinance adding Chapter 3.13 of the Oakland Municipal Code, the Limited Public Financing Act of 2024, or a substantively similar ordinance, attached as Exhibit A.”

6. For Exhibit A, in Section 1, delete Section 3.13.170 in its entirety, which reads as follows:

“For the 2024 election, the Commission may create a pilot version of the voter guide provided in Section 3.15.050 (F).”

7. For Exhibit A, delete Section 2 in its entirety, which proposed adding Subsection (F) to Section 3.15.050 of the Oakland Municipal Code.

Chair Micik proposed the following amendment:

For the Resolution, amend the first Resolved clause by adding the word “program” after “public financing” so that the first Resolved clause as amended reads as follows:

“RESOLVED, that the Commission hereby recommends that the City Council adopt an ordinance temporarily restoring a limited public financing program for the 2024 election; and be it.”

Micik moved, and Gage seconded to adopt the staff recommendation to approve the proposed amendments to the Limited Financing Act of 2024, with the two additional changes proposed by Director Heidorn and the change proposed by Chair Micik.

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Ayes: Micik, Hill, Gage, Upton IV, Perteet, Steele.

Noes: None.

Vote: Passed 6-0

Public Comment: None.

DISCUSSION ITEMS

7. Measure W Implementation – Oakland Fair Elections Act.

Lead Analyst Doran provided an update on activities necessary to implement Measure W, which passed the ballot on November 8, 2022, and which altered the Commission's staffing, authority, and created a newly designed public financing program to be administered by the Public Ethics Commission beginning with the 2026 regular election.

Public Comment: None.

8. Reports on Subcommittees and Commissioner Assignments.

a. Measure W Equity and Outreach Subcommittee (ad hoc, created on March 8, 2023) – Charlotte Hill (Chair), Alea Gage, Vincent Steele.

Hill reported that the subcommittee did not meet. Micik stated that there will be more discussions about the future of this subcommittee at the upcoming retreat.

b. Transparency and Public Records Subcommittee (ad hoc, created March 8, 2023) - Francis Upton IV (Chair), Arvon Perteet and Alea Gage.

Upton IV reported that the subcommittee did not meet.

Public Comment: None.

INFORMATION ITEMS

9. Commissioner Recruitment.

Director Heidorn provided an update on Commissioner Recruitment. The application deadline for the PEC -appointed position is October 27, 2023.

Public Comment: None.

10. Disclosure and Engagement.

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Lead Analyst Doran provided 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.

11. Enforcement Program.

Enforcement Chief Simon Russell provided a summary of the Commission's ongoing enforcement work, including overall caseload status, informal complaint intake, and enforcement-related litigation.

Public Comment: None.

12. Executive Director's Report.

Director Heidorn provided an update regarding the approval of the proposed salaries for the City Auditor and City Attorney. Director Heidorn noted that the City Council has asked that the City Administrator provide a recommendation for a potential ballot measure in November 2024 which would amend the City Charter to assign to the PEC the role of setting the Mayor's salary.

Director Heidorn provided an update on the status for the hiring of a Program Manager for Measure W and hiring for the permanent investigator position, which will likely be complete in October. Director Heidorn shared that Investigator Garrett Micheels resigned in August 2023.

Public Comment: None.

13. Future Meeting Business.

Micik encouraged commissioners to prepare for the retreat by reviewing the annual report and the website, including different disclosure tools posted on the website. Micik noted that Commissioners might be asked, as an ice breaker, to come up with a slogan for the PEC. Staff will target providing materials for the PEC retreat seven days before the retreat. Chair Micik encouraged commissioners, if they have suggestions for retreat agenda topics, to send those to staff.

Public Comment: None.

The meeting adjourned at 8:30 p.m.