

Item 7 - Stipulation and Exhibit Summary

1 Simon Russell, Enforcement Chief
2 CITY OF OAKLAND PUBLIC ETHICS COMMISSION
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4 Oakland, CA 94612
5 Telephone: (510) 238-2213

6 Petitioner.

7 BEFORE THE CITY OF OAKLAND
8 PUBLIC ETHICS COMMISSION

9 In the Matter of

) Case No.: 20-40

10 REBECCA KAPLAN,

) **STIPULATION, DECISION AND**
) **ORDER**

11 Respondent.
12
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14

15 **STIPULATION**

16 Petitioner, the Enforcement Unit of the City of Oakland Public Ethics Commission, and
17 respondent REBECCA KAPLAN, agree as follows:

- 18 1. This Stipulation will be submitted for consideration by the City of Oakland Public
19 Ethics Commission (Commission) at its next regularly scheduled meeting;
- 20 2. This Stipulation resolves all factual and legal issues raised in this matter and represents
21 the final resolution to this matter without the necessity of holding an administrative
22 hearing to determine the liability of Respondent;
- 23 3. The Respondent knowingly and voluntarily waives all procedural rights under the
24 Oakland City Charter, Oakland Municipal Code, and Public Ethics Commission
25 Complaint Procedures, including, but not limited to, the right to personally appear at an
26 administrative hearing held in this matter, to be represented by an attorney at their own
27 expense, to confront all witnesses testifying at the hearing, to subpoena witnesses to
28 testify at the hearing, and to have the matter judicially reviewed;

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- 1 4. This Stipulation is not binding on any other law enforcement agency, and does not
2 preclude the Commission or its staff from referring the matter to, cooperating with, or
3 assisting any other government agency with regard to this matter, or any other matter
4 related to it;
- 5 5. Respondent violated the Oakland Government Ethics Act by failing to disclose a
6 property interest on a statement of economic interest form (Form 700) on three separate
7 occasions, and assumed a financial conflict of interest when on two separate occasions
8 the Councilmember participated in making or sought to influence a decision of the City
9 in which the Councilmember had a financial interest.
- 10 6. The attached Exhibit is a true and accurate summary of the facts in this matter and is
11 incorporated by reference into this Stipulation;
- 12 7. The Commission will impose upon Respondent the following penalties: Count 1,
13 Failure To Timely Disclose A Property Interest On A Statement Of Economic Interest
14 Form 700, \$2,500; Count 2, Failure To Timely Disclose A Property Interest On A
15 Statement Of Economic Interest Form 700, \$3,500; Count 3, Failure To Timely
16 Disclose A Property Interest On A Statement Of Economic Interest Form 700, \$4,500;
17 Count 4 Conflict of Interest, \$4,000; Count 5, Conflict of Interest, \$4,500. Total
18 administrative penalties in the amount of \$19,000.
- 19 8. Respondent will enter a payment plan with the City in order to pay the penalty, on the
20 following terms. Respondent will submit a down payment in the amount of four-
21 thousand dollars (\$4,000), payable to "City of Oakland," at the same time as the
22 Commission considers this Stipulation. Upon approval of this Stipulation, Respondent
23 will make twelve monthly installment payments in the amount of one-thousand, two-
24 hundred and fifty dollars (\$1,250) each, payable to "City of Oakland," no later than the
25 final day of every month beginning with the month following that during which the
26 Commission approves this Stipulation. Should the final day of the month fall on a
27 weekend or City holiday, the monthly installment shall be due on the next business day
28 following the weekend or holiday. No interest shall accrue on the penalty, however

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1 Respondent shall pay a ten-dollar (\$10) penalty fee for each day that a monthly payment
2 is late, payable at the same time as the late-tendered payment. Respondent also agrees to
3 pay a one-time administrative fee of one-hundred twenty-five dollars (\$125) in
4 connection with the processing of the payment plan, payable at the same time as the
5 first monthly installment. A cashier's check from Respondent, in the amount of four-
6 thousand dollars (\$4,000), made payable to the "City of Oakland," is submitted with
7 this Stipulation as a down payment on the administrative penalty, to be held by the
8 Commission until the Commission issues its decision and order regarding this matter;

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

13 10. In the event the Commission rejects the Stipulation and a full evidentiary hearing before
14 the Commission becomes necessary, neither any member of the Commission, nor the
15 Executive Director, shall be disqualified because of prior consideration of this
16 Stipulation.

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19 Dated: _____


Simon Russell (Dec 1, 2022 13:17 PST)

Simon Russell, Enforcement Chief of the City of Oakland
Public Ethics Commission, Petitioner

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22 Dated: _____


Rebecca Kaplan (Dec 1, 2022 16:48 PST)

Rebecca Kaplan, Respondent

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DECISION AND ORDER

The foregoing Stipulation of the parties to “In the Matter of Rebecca Kaplan,” PEC Case No. 20-40, including all attached exhibits, is hereby accepted as the final Decision and Order of the City of Oakland Public Ethics Commission, effective upon execution below by the Chair.

Dated: _____

Arvon Perteet, Chair
City of Oakland Public Ethics Commission

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EXHIBIT Case No. 20-40

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INTRODUCTION

On October 30, 2020, the Public Ethics Commission (PEC) received a complaint alleging that Respondent, City of Oakland Councilmember At-Large Rebecca Kaplan, violated the Government Ethics Act (GEA) when she failed to disclose, on her Statement of Economic Interest (Form 700) that she had an ownership interest in an Oakland condominium that sat near Estuary Park.

The complaint further alleged that the Respondent violated the Government Ethics Act when she voted to approve a \$1.2 million-dollar improvement to Estuary Park, which is within 500 feet of the subject property. Such votes were alleged to be a conflict of interest because any improvements to the park could potentially affect the value of the Respondent’s interest in the condo.

Commission Staff investigated the matter and found that Councilmember Kaplan was a partial (1/3) co-owner of the condo, did not initially use it as her primary residence until sometime in 2018, failed to initially report her partial ownership of the condo on her Form 700s, and voted on matters concerning the allocation of funds and selection of persons to undertake tasks related to the improvement of Estuary Park. Those votes constituted a conflict of interest because the improvements to the park could have an impact on the value of the condo.

In mitigation, the investigation also found that the initial authorization for the park improvements had been made via a ballot measure approved by voters years before Councilmember Kaplan took office. Though not simply ministerial, Councilmember Kaplan’s votes were in furtherance of that voter-approved project and not subject to the usual wide range of discretion available to Councilmembers when voting on new projects. The investigation found also that Councilmember Kaplan’s violations in

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this matter, though serious, were unintentional, and not done with an intent to enrich herself. At one point, Councilmember Kaplan even voted against her own economic interest by declining to approve an architectural vendor for the project until she had assurance that the bidding process had been fair to all vendors. Councilmember Kaplan also eventually self-reported her interest in the condo, which is not an action consistent with a scheme to secretly enrich herself. Nevertheless, the fact that Councilmember Kaplan's actions were avoidable and might negatively affect Oakland residents' perception of the fairness and transparency of Council actions, merit the imposition of a penalty in this matter.

After close consideration of all the facts and the law, and for the reasons explained in this memorandum, Staff recommends that the Commission approve a stipulated agreement and impose the following Penalties: Count 1, \$2,500; Count 2, \$3,500; Count 3, \$4,500; Count 4, \$4,000; Count 5, \$4,500 for a total of \$19,000.

FACTUAL SUMMARY

Kaplan Purchases a Condo and Fails to Report it on Her Form 700s

Rebecca Kaplan was elected to the Oakland City Council At-Large seat in 2008 (assumed office 2009) and has held that position continuously, up to and including the events in this case. As a City Councilmember, she is required to file an annual Form 700 (Statement of Economic Interests) publicly disclosing, among other things, any real property interests she holds in Oakland, other than her primary residence.

During her time in office, Councilmember Kaplan has purchased two condominiums in the Portobello Apartment Complex located at 1 Embarcadero West, Oakland. She first acquired a condo in that complex in 2012 and sold it in 2014. Councilmember Kaplan told PEC investigators that she used that condo as her primary residence until 2013. As described below, Councilmember Kaplan reported that condo on her Form 700. These actions took place before the votes at issue in this case.

Councilmember Kaplan then participated with her parents in their purchase of another condo in the same building, in December 2013. The three, Rebecca Kaplan and her parents, remain co-owners to date. Councilmember Kaplan has told PEC investigators that she sometimes stayed in that unit herself over the years but did not move into it fully until 2018. Before then, Councilmember Kaplan had a different address as her primary residence.

Councilmember Kaplan did not report her ownership interest in the second condo until her 2019 Form 700 (filed in 2020), as shown in the following table:

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Councilmember Kaplan's Reporting of Property Interests on Her Form 700s	
Form 700 covering year...	Declared...
2013	Declared a real property interest in her first condo located in the Portobello Complex
2014	Declared a real property interest in what was then her primary residence, separate from the Portobello Complex. Did not report any other real property interests.
2015	Same as above.
2016	Same as above.
2017	Same as above.
2018	Same as above.
2019	Declared a real property interest in her second condo located in the Portobello Complex
2020	Did not declare any real property interests.

Plans are Made to Expand and Improve Estuary Park

Estuary Park is an eleven-acre site located next to the Portobello condo complex, where Councilmember Kaplan owns a partial interest in a unit. The Councilmember's unit is located within 500 feet of the park.

Plans to renovate and expand Estuary Park have been proposed within the City of Oakland since the late 1990s. In 2002, Oakland voters passed Measure DD, which authorized the sale of bonds to pay for various parks and waterway projects throughout the city. Specifically listed among those projects in 2002 was a renovation and expansion of Estuary Park. This was before Kaplan owned the subject property or held any public office.

First Kaplan Vote (2016): Authorizing Bond Funds for Measure DD Projects, Including Estuary Park

Between 2003-2016, \$160 million of Measure DD funds (including interest) were allocated and expended. Priority was given to other projects ahead of the Estuary Park expansion. Councilmember Kaplan joined the Oakland City Council in 2009.

In late 2016, the City was proposing to sell an additional \$27.5 million of Measure DD bonds in January 2017 for a large number of projects throughout the City of Oakland. This bond series required City Council approval for the appropriation. The Estuary Park portion of the Measure DD project was mentioned amongst a list of citywide projects in the accompanying staff report:

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II. ESTUARY WATERFRONT ACCESS, PARKS AND CLEAN UP

• Union Point Park	Completed
• Waterfront Trail at Alameda Avenue	Completed
• 66 th Avenue Gateway to Waterfront Bay Trail	Completed
• Waterfront Trail from Derby Ave. to Lancaster Street and pocket Park	Completed
• Waterfront Trail and Park at the former Cryer Boatworks Site	Completed
• Fruitvale Ave to High Street Waterfront Bay Trail	Completed
• Con Agra to 23 rd Avenue Trail	Pre-Design
• Livingston Pier Trail Connection	Construction 2017
• Crowley Trail (formerly known as Brooklyn Basin) Interim Trail	Construction 2017
• 10 th Avenue Marina Trail Connection	Construction 2017
• Embarcadero Cove Trail Improvements	Construction 2017
• Waterfront Trail at Bridges	Pre-Design
• Estuary Park	Pre-Design

About 1/10 of the new proposed funds were intended for the Estuary Park project, as itemized in the staff report.

The item was heard by the full City Council on December 13, 2016, on the consent calendar. Councilmember Kaplan was present for the vote. Councilmember Kaplan had no role in city Administration staff's decision to bring the item before the full City Council, and had no role in their decision to include Estuary Park among the citywide list of projects. No evidence suggests Kaplan made any effort to include Estuary Park; rather, City staff decided which projects to include.

At the time of the Council vote, Councilmember Kaplan did not recuse herself or state that she had a conflict of interest. She then voted with everyone else, 8-0 for the consent calendar (including this item) to pass.

Remaining Votes (2017): Approving an Architect for the Project

In 2017, City staff brought a resolution to the City Council seeking to use \$1.2 million from the previously-approved 2002 Measure DD bond funds to contract with architectural firm Hargreaves Associates for the Estuary Park design.

The item was heard in the City Council Public Works Committee on July 11, 2017. Councilmember Kaplan was a member of that committee and was present for the meeting; she did not recuse herself or note that she had a conflict of interest.

Following the staff presentation on the item, there was discussion among the committee members as to whether the process to select the proposed contractor (Hargreaves) complied with previous City Council direction on local hiring requirements. City staff argued that professional services agreements such as this one were exempt from the process outlined by the City Council. Councilmember Kaplan did not take part in the substantive discussion of this issue, but did move to continue the item a few months down the road, in order to give staff time to obtain legal clarity on the issues raised. When asked how this would impact the project, City staff said it would delay the Estuary Park project by a few months. Kaplan's motion failed 2-2 (Kaplan and another Councilmember voting in favor).

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Another Councilmember then moved to bring this item to the full City Council for a vote on whether to bypass committee and vote on it directly. That motion also failed 2-2, this time with Councilmember Kaplan opposed. At that point, the item was dead and would need to be re-submitted.

Following the Public Works Committee's initial rejection of the City staff's recommendation to award the Estuary Park design contract to Hargreaves Associates, City staff returned with a second recommendation to award the \$1.2 million contract to Hargreaves. This time, the City staff report accompanying the item explained Hargreaves' compliance with local small business hiring requirements.

The matter then went to the Public Works Committee on February 13, 2018. Councilmember Kaplan was present for the meeting and did not recuse herself for this item or acknowledge a conflict of interest. Following a staff presentation on the matter, the committee voted 4-0 to approve.

The item was then heard by the full City Council on February 20, 2018, on the consent calendar. Councilmember Kaplan was present for the meeting and did not recuse herself for this item or acknowledge a conflict of interest. The item passed unanimously without comment.

A City staff report dated July 24, 2020, described what happened next with the Hargreaves contract:

A robust public engagement process was implemented between August 2018 and February 2019. During this period, a number of site challenges were identified, including soil contamination, sea-level rise, and associated permitting challenges. Additionally, staff determined that the Hargreaves team was inadequate to address these site challenges and unwilling to consider revising the draft concept that they had developed. For these reasons, the professional services contract with Hargreaves Associates was terminated in October 2019.

Subsequently, the City issued another RFP and, following a staff-directed selection process, it decided to contract with WRT Associates for a new design contract valued at \$1.4 million. The awarding of the contract would require City Council approval. The City Council heard the matter on its consent calendar during its meeting of July 28, 2020. Councilmember Kaplan was present for that meeting and voted on the matter; she did not recuse herself or acknowledge a conflict of interest. It passed unanimously.

Kaplan's Interview with the PEC

When asked about her votes as a Councilmember on matters involving improvements to Estuary Park, Councilmember Kaplan stated that it was not her intention to ever benefit financially from her votes, and that she believed she was merely voting to select a contractor for design services. She acknowledged that Estuary Park is near to the condo in which she has a partial ownership interest. She did not dispute that the votes occurred. Kaplan stated that she was not seeking to, and in fact did not, move funding or move park allocations to locations near the condo in which she owns an interest, rather, that such decisions had been made years before, by the voters. This is consistent with the legislative history of the items on which she voted. There is no evidence that Councilmember Kaplan urged City staff to prioritize funding for, or development of, Estuary Park.

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Councilmember Kaplan admits to the PEC that she made an error in not reporting her interest in the condo sooner, and in not recusing herself on the votes affecting the park near her property. Regarding the non-reporting violations, Councilmember Kaplan states that she did not fully understand the reporting requirements, particularly in light of the fact that she was not renting out the condo and sometimes used it herself over the years, though she never considered it to be her primary residence until 2018. Regarding her failure to recuse herself from the votes on which she was conflicted, Councilmember Kaplan admits that this was an oversight on her part and that, given that her understanding was that she was voting to move along a project that had already been approved by voters, she did not give much thought to the potential impact of her votes on the value of her property.

SUMMARY OF LAW AND LEGAL ANALYSIS

Councilmember Kaplan Was Required to Timely Report Her Ownership of the Condo on Her Form 700s

City of Oakland officials, including elected officials listed in Government Code Section 87200, under penalty of perjury, must report investments, business positions, and sources of income, including all interests in real property within their agency's jurisdiction (i.e. the city of Oakland).

Here, Councilmember Kaplan failed to timely report a condo within Oakland that she co-owned with her parents since December 2013 and did not use as her primary residence until 2018. She should have disclosed it in a manner timely on her Form 700s, but did not do so until her Form 700 covering 2019.

Councilmember Kaplan Should Not Have Voted on Matters Affecting a Park Next Door to Her Condo

The Oakland Municipal Code provides that a Public Servant (including elected officials such as City Councilmembers) shall not make, participate in making, or seek to influence a decision of the City in which the Public Servant has a financial interest.

For a conflict of interest to exist there does not need to have been any wrongdoing committed, harm caused, or advantage realized. The existence of a conflict is independent of any actual adverse impact. There are four elements to determine whether a public official has a prohibited conflict of interest under the Act.¹ Those elements are:

1. Is it reasonably foreseeable that the governmental decision will have a financial effect on any one of the public official's financial interests?
2. Will the reasonably foreseeable financial effect be material?
3. Can the public official demonstrate that the material financial effect on the public official's financial interest is indistinguishable from its effect on the public generally? If not,
4. If after applying the three steps above and determining the public official has a conflict of interest, absent an exception the official may not make, participate in

¹ 2 Cal. Code of Regulations § 18700.

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making or in any way attempt to use the official's position to influence the governmental decision.

Here, it reasonably foreseeable that the Councilmember Kaplan's votes would impact the property value of her condo. There is a presumption within the law that any governmental decision involving a project located within 500 feet of an official's real property will necessarily have a material financial impact on their property. In this case, Councilmember Kaplan voted on matters affecting the development of a park located within 500 feet of her property, therefore the material financial effect on her property is presumptive.

It should be noted that the approval and funding for the Estuary Park project had already been passed by voters via ballot measure long before the Councilmember assumed office. Her Council votes in this matter facilitated that project, including the timing of it, but were not fundamental to the project's existence. Furthermore, by voting to delay approval of the Hargreaves contract until the Council could be assured that the proper bidding procedure had been followed, Councilmember Kaplan was essentially voting against her own economic interest. While these circumstances do not relieve the Councilmember of liability in this matter, they should be taken into consideration as mitigating factors.

Thus, Councilmember Kaplan was prohibited by the Oakland Municipal Code from making, participating in making or seeking to influence actions of the City regarding the park that was adjacent to a property in which she had a financial interest.

SETTLEMENT

Respondent, Rebecca Kaplan, has agreed to settle claims regarding the following violations of the Oakland Municipal Code:

Counts 1-3: Failure To Timely Disclose A Property Interest On A Statement Of Economic Interest Form 700

On or between January and December 2016, Respondent, Rebecca Kaplan, City of Oakland Councilmember, violated O.M.C 2.25.040 (B), when she failed to disclose her Year-2015 financial or property interest in an Oakland condominium on her Statement of Economic Interest Form 700.

On or between January and December 2017, Respondent, Rebecca Kaplan, City of Oakland Councilmember, violated O.M.C 2.25.040 (B), when she failed to disclose her Year-2016 financial or property interest in an Oakland condominium on her Statement of Economic Interest Form 700.

On or between January and December 2018, Respondent, Rebecca Kaplan, City of Oakland Councilmember, violated O.M.C 2.25.040 (B), when she failed to disclose her Year-2017 financial or property interest in an Oakland condominium on her Statement of Economic Interest Form 700.

Count 4: Conflict of Interest

On December 13, 2016, Respondent Rebecca Kaplan, City of Oakland Councilmember violated O.M.C. 2.25.040 (A) of the Oakland Campaign Reform Act when she made, participated in making, or sought

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to influence a decision of the City in which she had a financial interest, specifically via her vote to authorize bond funds for Measure DD Projects including Estuary Park.

Count 5: Conflict of Interest

On July 11, 2017, February 13, 2018, February 20, 2018, and July 28, 2020, Respondent Rebecca Kaplan, City of Oakland Councilmember violated O.M.C. 2.25.040 (A) of the Oakland Campaign Reform Act when she made, participated in making, or sought to influence a decision of the City in which she had a financial interest, specifically via her votes to approve an architect for the Estuary Park project.

PENALTIES

The Enforcement Penalty Guidelines authorize the Commission to impose maximum administrative penalties of up to \$5,000, or three times the amount of the not lawfully reported (whichever is greater), for a violation of GEA O.M.C. 2.25.040(B). The Base level penalty for a violation of O.M.C. 2.25.040 is \$1,000(B).²

For a violation of O.M.C. 2.25.040 (A) the maximum administrative penalty is also \$5,000, or three times the amount unlawfully given or received (whichever is greater). The Base level penalty for a violation of O.M.C. 2.25.040 (A) is \$3,000.³

The PEC will consider all relevant mitigating and aggravating circumstances surrounding a violation when deciding on a penalty, including, but not limited to, the following factors:

1. The seriousness of the violation, including, but not limited to, the extent of the public impact or harm;
2. The presence or absence of any intention to conceal, deceive, or mislead;
3. Whether the violation was deliberate, negligent, or inadvertent;
4. Whether the violation was isolated or part of a pattern;
5. Whether the respondent has a prior record of violations and/or demonstrated knowledge of the rule or requirement at issue;
6. The extent to which the respondent voluntarily and quickly took the steps necessary to cure the violation (either independently or after contact from the PEC);
7. The degree to which the respondent cooperated with the PEC's enforcement activity in a timely manner;
8. The relative experience of the respondent.

² See, Enforcement Penalty Guidelines (2018) page 5.

³ See also, Enforcement Penalty Guidelines (2018) page 5.

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The PEC has broad discretion in evaluating a violation and determining the appropriate penalty based on the totality of circumstances. This list of factors to consider is not an exhaustive list, but rather a sampling of factors that could be considered. There is no requirement or intention that each factor – or any specific number of factors - be present in an enforcement action when determining a penalty. As such, the ability or inability to prove or disprove any factor or group of factors shall in no way restrict the PEC's power to bring an enforcement action or impose a penalty.

Aggravating Factors

Here, the circumstances of the Respondent's conduct establish aggravating factors that should substantially increase the severity of the penalty:

1. The Respondent is an experienced elected official and lawyer with knowledge of and experience with the Government Ethics Act (GEA), particularly Financial Conflicts of Interest and Form 700 disclosure requirements. The Respondent was one of the Councilmembers who voted to adopt the GEA in 2014.
2. The violation was serious because the Respondent's multiple failures to timely disclose a property interest hindered the community's ability to hold elected officials accountable and potentially undermined the public trust in the transparency and effectiveness of City government.
3. The Respondent's conduct was a pattern, including multiple failures to disclose her property interest and recuse herself from Council votes affecting that interest.
4. Regarding Counts 4-5, the Councilmember's financial interest in the votes was unreported on her Form 700s at the time.
5. Regarding Count 5, the Councilmember's initial votes delayed the completion of the project.

Mitigating Factors

1. The Respondent cooperated with the Public Ethics Commission enforcement investigation.
2. The violations were negligent rather than deliberate.
3. There is no evidence that the Councilmember acted with any intent to enrich herself. On July 11, 2017, she voted against her own financial interest when she voted to delay the project in order to ensure that the bidding process had comported with City Council's directed process.
4. The Councilmember eventually self-reported her property interest on her Form 700, without prompting from the PEC.
5. The Councilmember takes responsibility for her error and worked with the PEC in good faith to resolve this matter in a fair and timely manner.

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6. The park in question had already been approved and funded by voters, and thus, although the Councilmember should not have participated in the subject votes affecting the timing and manner of the project implementation, the scope of her discretion was more limited than it would have been had voters not already approved and funded the project.
7. Regarding Count 4, this was a consent calendar vote.
8. Regarding Count 5, although the Councilmember voted to delay the project, this was done to ensure the integrity of the bidding process and was against her own financial interest.

In light of these factors, and taking into consideration the PEC’s penalty guidelines, Staff recommends that the Commission settle the case with the following penalties:

Count	Violation	Guideline Penalty	Recommended Penalty
Count 1	Failure to Disclose A Financial Interest on Form 700	Base level Penalty: \$1,000 Maximum penalty: \$5,000, or three times the unreported amount	\$2,500
Count 2	Failure to Disclose A Financial Interest on Form 700	Base level Penalty: \$1,000 Maximum penalty: \$5,000, or three times the unreported amount	\$3,500
Count 3	Failure to Disclose A Financial Interest on Form 700	Base level Penalty: \$1,000 Maximum penalty: \$5,000, or three times the unreported amount	\$4,500
Count 4	Conflict of Interest	Base level Penalty: \$3,000 Maximum penalty: \$5,000, or three times the amount unlawfully given or received	\$4,000
Count 5	Conflict of Interest	Base level Penalty: \$3,000	\$4,500

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		Maximum penalty: \$5,000, or three times the amount unlawfully given or received	
			Total = \$19,000

RECOMMENDATION

Based on the facts and analysis above, Staff recommends that the Commission approve the attached Stipulated Agreement and impose the following Penalties: Count 1, \$2,500; Count 2, \$3,500; Count 3, \$4,500; Count 4, \$4,000; Count 5, \$4,500, for a total of \$19,000.