

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Special Commission Meeting
Hearing Room 2
Monday, September 16, 2024
6:30 p.m.



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

Commission Staff to attend: Nicolas Heidorn, Executive Director; Simon Russell, Enforcement Chief.

Legal Counsel: Farrah Hussein, Deputy City Attorney

PUBLIC ETHICS COMMISSION SPECIAL MEETING MINUTES

PRELIMINARY ITEMS

1. Roll Call and Determination of Quorum.

The meeting was called to order at 6:35 p.m.

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

Staff present: Nicolas Heidorn; Simon Russell.

Legal Counsel: Farrah Hussein.

2. Staff and Commission Announcements.

There were no announcements.

Public Comment: None.

3. Open Forum.

Public Comment: Scott Law, Gene Hazzard, Assata Olugbala, Ralph Kanz.

Written public comment from Oakland Rising, Bay Rising, Asian Law Caucus, California Common Cause, Marleen L. Sacks, Sandy McCabe, Scott Law, Ralph Kanz, Caleb Smith, and Jessica Gray was received prior to the meeting.

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. Written public comments are posted on the meeting webpage, which may be found at www.oaklandca.gov/pec.

ACTION ITEM



4. Approval of Commission Meeting Draft Minutes.

a. July 10, 2024, Regular Meeting Minutes.

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

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

Noes: None.

Vote: 5-0

Motion passed.

b. August 14, 2024, Special Meeting Minutes.

Vice Chair Upton moved, seconded by Chair Micik, to approve the August 14, 2024 Public Ethics Commission Special Meeting Minutes.

Ayes: Upton IV, Gage, Steele, Micik.

Noes: None.

Abstain: Tilak.

Vote: 4-0

Motion passed.

ACTION ITEMS

5. Proposal to Increase Contribution Limits.

Pursuant to Charter Section 603(h), Executive Director Heidorn presented on, and Commissioners discussed, a proposal by Councilmember Ramachandran and Councilmember Jenkins to temporarily raise campaign contribution limits for City and OUSD elections. Councilmembers Ramachandran and Jenkins spoke regarding the proposal.

Public Comment: Gene Hazzard, Gale Wallace, Tiffany Lassado, Assata Olugbala, Ralph



Kanz.

Steele moved to support the Councilmembers' proposal to increase contribution limits. There was no second.

Tilak moved, seconded by Steele, to support the Councilmembers' proposal with an amendment to add an expenditure limit requirement for the 2026 election cycle. Gage suggested an amendment to ask the Councilmembers consider an evaluation after the election to see the effects of the proposal.

In order to incorporate amendments, no vote was taken.

Tilak moved, seconded by Steele, to support the Councilmembers' proposal with an amendment to add an expenditure limit requirement for the 2026 election cycle and with a request that Councilmembers evaluate data prepared by Commission staff on the impact of the higher contribution limits in the 2024 election cycle.

Ayes: Gage, Steele, Tilak.

Noes: Upton IV, Micik.

Vote: 3-2

Motion failed.

Vice Chair Upton moved, seconded by Gage, for a letter to be created by staff and sent to the City Council stating they share the concerns of Councilmembers Ramachandran and Jenkins; they appreciate the importance of being able to have enough money to run a campaign and get a message out; they have certain concerns around timing, and the Commissioners would want to have expenditure limits implemented in the 2026 election cycle if the proposal was implemented. In addition, the letter should include a noted desire of the Commissioners that this type of resolution for 2026 would come back in early 2025 and that evaluation and data should be collected following the 2024 election cycle.

Ayes: Upton IV, Gage, Micik.



Noes: None.

Abstain: Steele, Tilak.

Vote: 3-0

Motion failed.

Chair Micik moved, seconded by Tilak, to convey a letter to City Council outlining the points summarized by the Executive Director with the modification the Commissioners are not prescribing any particular solution to the issue of a potential difference of contribution limits in 2026, but they're flagging the issue as something the PEC would like to work with City Council on. Steele suggested an amendment to include the previous vote's outcome in the letter.

In order to incorporate amendments, no vote was taken.

Chair Micik moved, seconded by Tilak, to convey a letter to City Council containing the following points:

- Commissioners share the Councilmembers' concerns about candidates having enough money to get their message out.
- Commissioners want candidates to have to agree to expenditure limits in the 2026 election cycle to get the higher contribution limits.
- There is discouragement for doing a reimbursement-based solution, but Commissioners would still like to study how to handle differences in distributions between 2025 and 2026.
- Commissioners and the PEC will continue to look into this matter.
- There are concerns regarding the timing of implementing the proposal for 2024.
- The vote regarding accepting the proposal failed 3-2.

Public Comment: Gene Hazzard.

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

Noes: None.



Vote: 5-0

Motion passed.

INFORMATION ITEMS

6. Disclosure and Engagement.

Executive Director Heidorn 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. Democracy Dollars Implementation.

Executive Director Heidorn provided, and Commissioners discussed, a summary of significant developments in the implementation of the Democracy Dollars Public Financing Program, which will be used in the 2026 election.

Public Comment: Assata Olugbala, Gene Hazzard.

8. 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: Assata Olugbala, Gene Hazzard, Ralph Kanz.

9. 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: Gene Hazzard, Assata Olugbala.

A recess was taken at 9:05.

The meeting was reconvened at 9:15pm.

ACTION ITEMS

Executive Director Heidorn is recused on the following items and left the room at this time.

10. Proposed Settlement Agreement: In the Matter of Oaklanders For Responsible Leadership, et al. (PEC # 22-09).

In 2022, the PEC opened an investigation into allegations that a campaign committee called “Oaklanders For Responsible Leadership” had been a candidate-controlled committee and failed to comply with all of the necessary laws concerning candidate-controlled committees, including the contribution limit and the prohibition on receiving contributions from City contractors at certain times; as well as allegations that this and another committee called “OAKPAC, Oakland Metropolitan Chamber of Commerce” failed to accurately report intermediary contributions. Respondents have agreed to settle this matter. Enforcement Chief Simon Russell presented on, and Commissioners discussed, the proposed settlement agreement. Gary Winuk, attorney for Libby Schaaf, and Jim Sutton, attorney for Doug Linney, spoke regarding the settlement agreement.

Public Comment: Marleen Sacks, Gene Hazzard, Jorge Lerma, Caleb Smith, Jaharah, Tiffany Lassado, Unidentified Speaker, Michael Wang, Assata Olugbala, Ralph Kanz.

Steele moved, seconded by Tilak, to direct Enforcement Chief Russell to draft a settlement agreement that sets out financially what each individual would be responsible for.

Ayes: Steele, Tilak.

Noes: Upton, Gage, Micik.

Vote: 2-3



Motion failed.

Chair Micik moved, seconded by Vice Chair Upton, to accept the settlement agreement as originally proposed.

Ayes: Upton IV, Gage, Micik.

Noes: Steele, Tilak.

Votes: 3-2

Due to procedural issues, this vote failed.

The Commission returned to this item after clarifying the procedural process for enforcement actions.

Public Comment: Ralph Kanz, Nick Sanders.

Chair Micik moved, seconded by Vice Chair Upton, to approve the settlement agreement.

Ayes: Upton IV, Gage, Micik.

Noes: Steele, Tilak.

Votes: 3-2

Motion failed.

Tilak moved, seconded by Steele, to provide direction to staff to return with a settlement that specifies how much each respondent is responsible for within the penalties assessed.

Ayes: Upton IV, Steele, Tilak.



Noes: Gage, Micik.

Votes 3-2

Motion passed.

11. Proposed Settlement Agreement: In the Matter of Committee For An Affordable East Bay, et al. (PEC # 20-41.1).

On February 22, 2021, the PEC opened an investigation into allegations that a campaign committee called “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 contribution limit and the prohibition on receiving contributions from City contractors at certain times; as well as allegations that it coordinated an expenditure with another candidate-controlled committee, “Derreck Johnson For City Council 2020,” using polling data contributed to the latter from the Oakland Police Officers Association without proper disclosure. Respondents have agreed to settle this matter with or without admitting to liability on certain counts. Enforcement Chief Simon Russell presented on, and Commissioners discussed, the proposed settlement agreement. Gary Winuk, attorney for Libby Schaaf, spoke regarding the settlement agreement.

Public Comment: Ralph Kanz.

Vice Chair Upton moved, seconded by Chair Micik, to approve the settlement agreement.

Ayes: Upton IV, Gage, Micik.

Noes: Steele, Tilak.

Votes: 3-2

Motion failed.

Tilak moved, seconded by Steele, to provide direction to the Enforcement Chief to return with a settlement agreement that specifies the amount individual respondents



will pay as penalties.

Ayes: Upton IV, Steele, Tilak.

Noes: Gage, Micik.

Votes: 3-2

Motion passed.

12. Proposed Settlement Agreement: In the Matter of William Witte (PEC # 20-41.3).

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. Respondent was a City contractor who made a contribution to The Committee For An Affordable East Bay. Respondent has agreed to settle this matter with regard to his own alleged actions, without admitting liability. Enforcement Chief Simon Russell presented on, and Commissioners discussed, the proposed settlement agreement.

Vice Chair Upton moved, seconded by Tilak, to approve the proposed settlement agreement.

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

Noes: None.

Votes: 5-0

Motion passed.

Public Comment: None.

13. Proposed Settlement Agreement: In Matter of Oakland Fund For Measure AA, et al.



(PEC # 19-01.1).

On April 2, 2020, the PEC opened an investigation into allegations that a ballot measure committee called “The Oakland Fund For Measure AA” had been a candidate-controlled committee and failed to comply with all of the necessary laws concerning candidate-controlled ballot measure committees, including the prohibition on receiving contributions from City contractors at certain times. Respondents have agreed to settle this matter without admitting liability. Enforcement Chief Simon Russell presented on, and Commissioners discussed, the proposed settlement agreement.

Gary Winuk, attorney for Libby Schaaf, spoke withdrawing the settlement agreement.

Due to the settlement agreement being withdrawn, no motion or direction was given.

Public Comment: None

14. Proposed Settlement Agreement: In the Matter of Julian Orton (PEC # 19-18).

On April 2, 2020, the PEC opened an investigation into allegations that a ballot measure committee called “The Oakland Fund For Measure AA” had been a candidate-controlled committee and failed to comply with all of the necessary laws concerning candidate-controlled ballot measure committees, including the prohibition on receiving contributions from City contractors at certain times. Respondent, a City contractor who made a contribution to the committee, has agreed to settle this matter with regard to his own alleged actions, without admitting liability. Enforcement Chief Simon Russell presented on, and Commissioners discussed, the proposed settlement agreement.

Public Comment: None.

Tilak moved, seconded by Steele, to approve the settlement agreement.

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

Noes: None.

Vote: 5-0.



Motion passed.

DISCUSSION ITEMS

15. Reports on Subcommittees and Commissioner Assignments.

a. Commissioner Recruitment and Selection of Finalists for Interviews Subcommittee.

Chair Micik shared the Subcommittee met, reviewed the resumes of 10 candidates, and narrowed the list to 6 candidates to be interviewed. Candidates will be interviewed the week of the 16th to narrow down the list to those that will be invited to the October 9th, 2024 PEC Regular Meeting. The plan is to interview two or three candidates at that meeting.

Executive Director Heidorn returned to the chamber at 12:18.

b. Charter Review Subcommittee.

Chair Micik shared the Subcommittee met to discuss the closing documentation for the Subcommittee that will serve as a roadmap for future actions of the PEC to revise the charter.

The former Outreach Subcommittee sunset previously, and a new Subcommittee will be formed. Chair Micik plans to create a Democracy Dollars specific Outreach Subcommittee. In order to give Commissioners time to decide whether to serve on that Subcommittee, it will not be created today.

Public Comment: None.

Chair Micik moved, seconded by Vice Chair Upton, to reopen Agenda Item 5.

After discussion, Chair Micik withdrew the motion.

INFORMATION ITEM

16. Future Meeting Business.

There was no additional business brought up for future meetings by the Commission.

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Public Comment: None.

The meeting adjourned at 12:26 a.m.