

Fair Campaign Practices Commission  
Open Government Commission

## CONCURRENT MEETING OF THE FAIR CAMPAIGN PRACTICES COMMISSION AND THE OPEN GOVERNMENT COMMISSION

### MEETING AGENDA

June 18, 2020

7:00 p.m.

Pursuant to Executive Order N-29-20 issued by the Governor on March 17, 2020, this meeting will be held telephonically. Members of the public interested in attending will be able to observe and address the meeting using the following dial-in information:

Call-in Number: 1-213-279-1690

Access Code:727864794

Secretary: Samuel Harvey, Deputy City Attorney

#### **The Commission may act on any item on this agenda**

1. Call to Order 7:00 p.m.
2. Roll Call.
3. Public Comment. *Comments on subjects not on the agenda that are within the Commissions' purview are heard at the beginning of meeting. Speakers may comment on agenda items when the Commission hears those items.*
4. Approval of minutes for the May 21, 2020, concurrent regular meeting
5. Changing meeting start times to 6 p.m. while meetings are held telephonically during the COVID-19 shelter-in-place order; discussion and possible action.

#### **Fair Campaign Practices Commission Agenda**

6. Reports.
  - a. Report from Chair.
  - b. Report from Staff.
7. Approval of public campaign financing program certification applications; discussion and possible action.
8. Regulations defining a "minor violation" for staff approval of public financing applications; discussion and possible action.

#### **Open Government Commission Agenda**

9. Reports.
  - a. Reports from Chair.
  - b. Reports from Staff.
10. Councilmember office budget relinquishments and grants to organizations; discussion and possible action.

11. Adjournment.

**Communications**

None

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD). Please refrain from wearing scented products to this meeting.

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information. **SB 343 Disclaimer:** Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the City Attorney's Office at 2180 Milvia St., 4<sup>th</sup> Fl., Berkeley, CA.



Fair Campaign Practices Commission  
Open Government Commission

## DRAFT MINUTES

May 21, 2020

### CONCURRENT REGULAR MEETING OF THE FAIR CAMPAIGN PRACTICES COMMISSION AND THE OPEN GOVERNMENT COMMISSION

Pursuant to Executive Order N-29-20 issued by the Governor on March 17, 2020, this meeting was held telephonically.

Secretary: Samuel Harvey, Deputy City Attorney

Members Present: Brad Smith (Chair), Jedidiah Tsang (Vice Chair), Jessica Blome, Janis Ching, Mark McLean, Dean Metzger, Patrick O'Donnell, Patrick Sheahan

Also Present: Samuel Harvey, Staff Secretary / Deputy City Attorney  
Mark Numainville, City Clerk

1. **Call to Order**

Chair Called the meeting to order at 7:00 p.m.

2. **Roll Call**

Roll call taken.

3. **Public Comment (items not on agenda)**

No speakers.

4. **Approval of minutes for the April 23, 2020 concurrent regular meeting**

- a. Public comment: No speakers.
- b. Commission discussion and action

*Motion to approve minutes pending confirmation of details of one motion by Secretary (M/S/C: Metzger/Blome; Ayes: Metzger, O'Donnell, Ching, Blome, Sheahan, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: none.)*

### **Fair Campaign Practices Commission Agenda**

5. **FCPC Reports**

- a. Report from Chair.
- b. Report from Staff.

6. **2020-2021 FCPC Work Plan**

- a. Public comment: No speakers.
- b. Commission discussion and action.

*Motion to move consideration of item until end of meeting. (M/S/C: Sheahan/Metzger; Ayes: Metzger, O'Donnell, Ching, Sheahan, Blome, McLean, Smith; Noes: Tsang; Abstain: none; Absent: none.)*

*Motion to approve FCPC Work Plan with changes. (M/S/C: Blome/O'Donnell; Ayes: Metzger, O'Donnell, Ching, Blome, McLean, Sheahan, Tsang, Smith; Noes: none; Abstain: none; Absent: none.)*

### **Open Government Commission Agenda**

7. **OGC Reports**

- a. Report from Chair.
- b. Report from Staff.

8. **Lobbying registration and reporting processes for companies, firms and organizations**

- a. Public comment: No speakers.
- b. Commission discussion and action.

*Motion to approve recommendation. (M/S/C: Blome/O'Donnell; Ayes: Metzger, O'Donnell, Ching, Blome, McLean, Sheahan, Tsang, Smith; Noes: none; Abstain: none; Absent: none.)*

9. **Councilmember office budget relinquishments and grants to organizations**

- a. Public comment: No speakers.
- b. Commission discussion and action.

*Motion to create a temporary advisory committee to draft a recommendation to Council to be considered by the OGC at its next meeting. (M/S/C: Ching/Metzger; Ayes: Metzger, O'Donnell, Ching, Blome, Sheahan, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: none.)*

10. **OGC Work Plan**

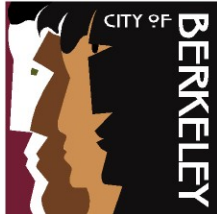
- a. Public comment: No speakers.
- b. Commission discussion and action.

*Motion to approve OGC Work Plan.* (M/S/C: O'Donnell/Blome; Ayes: Metzger, O'Donnell, Ching, Blome, Sheahan, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: none.)

11. **Adjournment**

*Motion to adjourn.* (M/S/C: McLean/O'Donnell; Ayes: Metzger, O'Donnell, Ching, Blome, Sheahan, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: none.)

The meeting adjourned at 9:47 p.m.



City Clerk Department

**DATE:** June 18, 2020

**TO:** FAIR CAMPAIGN PRACTICES COMMISSION

**FROM:** Mark Numainville, City Clerk

**SUBJECT:** Certification of Public Financing Program Participant

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Pursuant to the Fair Elections Act of 2016, the Fair Campaign Practices Commission is required to certify candidates as participants in the City's public financing program. As of June 9, 2020, the following requests have been received and are recommended by staff for approval as noted:

<b>Application for Participation/Qualifying Request for Funds; Matching Request for Funds</b>	
<b>Submitted By:</b>	Deborah Matthews (District 3)
<b>Qualified Contributions:</b>	\$1,475.00
<b>Eligible Matching Funds:</b>	\$8,850.00
<b>Recommendation:</b>	Certify candidate to participate in the program. Approve 6:1 matching public funds in an amount not to exceed \$8,850. The \$50 contribution from Margaret Clarke is not being included in this submission due to an incorrectly written check. Missing or corrected information has been provided to staff for Judy Hunt (occupation/employer), Sue Marzuola (city of self-employment), and Matthew Lewis (occupation).

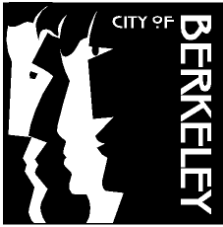
<b>Application for Participation/Qualifying Request for Funds; Matching Request for Funds</b>	
<b>Submitted By:</b>	Richard Illgen (District 6)
<b>Qualified Contributions:</b>	\$1,520.00
<b>Eligible Matching Funds:</b>	\$9,120.00
<b>Recommendation:</b>	Certify candidate to participate in the program. Approve 6:1 matching public funds in an amount not to exceed \$9,120. The \$50 contribution from Linda Franklin is not being included in this submission due to an incorrectly written check. Missing or corrected information has been provided to staff for Kiran Jain (employer), David Blake (city of self-employment), Franchesca Callejo (occupation/employer), Zachary McCoy (payment method), Victor Callejo-Brighton (city of self-employment), and Alan Miller (occupation).

Basic glossary of terms:

Application for Participation	Required form for participating candidates that certifies they will follow the regulations and requirements of the program.
Qualifying Request	In order to qualify to receive public matching funds, a candidate must collect at least 30 contributions (from 30 unique contributors) of at least \$10 totaling \$540.
Matching Request	Campaign committees participating in the Public Financing Program submit a Matching Request with all required documentation in order to receive Public Matching Funds.
Qualified Contribution	A contribution that is eligible for the 6-to-1 match from the Fair Elections Fund. A Qualified Contribution is a contribution of \$50 or less from a natural person resident of Berkeley.

Attachments

1. Deborah Matthews: Application, Qualifying and Matching Request.
2. Richard Illgen: Application, Qualifying and Matching Request.



**City Clerk Department**  
**2180 Milvia Street**  
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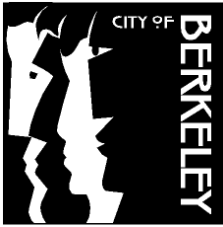
**FAIR ELECTIONS ACT FORM**

**APPLICATION FOR PARTICIPATION  
 IN PUBLIC FINANCING PROGRAM**

(Berkeley Municipal Code Chapter 2.12 – Election Reform Act)

<b>OFFICE SOUGHT</b>		
OFFICE City Council	COUNCIL DISTRICT (IF APPLICABLE) 3	
ELECTION CYCLE 11/03/2020		
<b>CANDIDATE INFORMATION</b>		
LAST Matthews	FIRST Deborah	M.I.
<b>COMMITTEE INFORMATION</b>		
NAME OF CAMPAIGN COMMITTEE Deborah Matthews for Berkeley City Council 2020		FPPC I.D. No. Pending
<b>CANDIDATE CERTIFICATION</b>		
<p>Under penalty of perjury, I hereby certify:</p> <p>I have complied with the restrictions of Berkeley Municipal Code Chapter 2.12 (Election Reform Act) during the election cycle to date; and</p> <p>My campaign committee has filed all campaign finance reports required by law during the election cycle to date and that they are complete and accurate; and</p> <p>I will comply with the requirements of Chapter 2.12 during the remainder of the election cycle and, specifically, if certified as an eligible participating candidate, will comply with the requirements applicable to participating candidates.</p>		
Deborah Matthews CANDIDATE SIGNATURE		01/22/2020 DATE SIGNED





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**FAIR ELECTIONS ACT FORM**  
**INITIAL QUALIFYING DECLARATION FOR PUBLIC FUNDS**  
**BY CANDIDATES FOR MAYOR OR CITY COUNCIL**

<b>OFFICE SOUGHT</b>			
OFFICE City Council		COUNCIL DISTRICT (IF APPLICABLE) District 3	
ELECTION CYCLE 11/03/2020			
<b>COMMITTEE INFORMATION</b>			
NAME OF CAMPAIGN COMMITTEE  Deborah Matthews for Berkeley City Council 2020			FPPC I.D. No.  Pending
STREET ADDRESS		APARTMENT/SUITE/FLOOR	
CITY Berkeley	STATE CA	ZIP CODE 94703	
TELEPHONE (510) 421-4433	EMAIL ADDRESS matthews4d3@gmail.com		
<b>CANDIDATE DECLARATION</b>			
I hereby declare that the following information is true and correct: <ul style="list-style-type: none"> <li>• All information on the attached Qualified Contribution Receipts is complete and accurate to the best of my knowledge.</li> <li>• I understand that the Commission shall verify that the qualified contributions meet all of the requirements and restrictions prior to the disbursement of funds.</li> <li>• I understand that if I submit any contributions that are not from the person(s) identified on the receipt I shall be liable to pay the Fair Elections Fund the entire amount in addition to any penalties.</li> <li>• All Qualified Contributions, of any dollar amount, eligible for matching Fair Elections funds must be publically disclosed with the contributor information required under Sections 2.12.280 and 2.12.283.</li> <li>• I understand that all campaign filings must be current in order for a disbursement of Fair Election funds to be released.</li> </ul>			
Deborah Matthews		05/30/2020	
CANDIDATE SIGNATURE		DATE SIGNED	

**ITEM 7**  
**Attachment 1**

**INITIAL QUALIFYING REQUEST FOR FAIR ELECTIONS FUNDS PAYMENT**

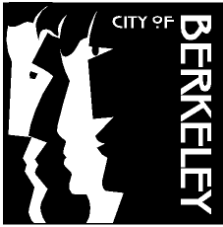
In order to participate in the Public Financing Program, a candidate must collect at least 30 Qualified Contributions from at least 30 unique contributors of at least \$10.00 and no more than \$50.00 each, for a total dollar amount of at least \$540.00.

All approved Qualified Contributions are matched at a 6:1 ratio. For all public matching funds requests, a candidate must submit the following documentation:

- Qualified Contributions List (below).
- Receipt for Qualified Contribution for Fair Elections Funds.
- Evidence of each contribution received, such as electronic copies of contributor checks, credit card authorizations, or online payment receipts.
- Electronic copies of itemized deposit slips.
- Complete contributor information (full name, address, occupation, and employer) as required by BERA and the Political Reform Act.

Last Name	First Name	Address	Zip Code, City	Occupation	Employer	Payment Method	Date Received	Date Deposited	Deposit Batch #	Amount of Contribution
1. Moulitsas	Markos		94703 Berkeley	Writer	Kos Media	Electronic	05/08/2020	05/08/2020	1	50.00
2. Berne	Michael		94705 Berkeley	urban planning / retail real estate consultant	Self - Berkeley CA	Electronic	05/07/2020	05/07/2020	1	25.00
3. Sanderson	Debra		94705 Berkeley	Unemployed	Unemployed	Electronic	05/05/2020	05/05/2020	1	50.00
4. Shiver	David		94705 Berkeley	Principal	BAE Urban Economics	Electronic	05/01/2020	05/01/2020	1	50.00
5. Trachtenberg	David		94705 Berkeley	Architect	Trachtenberg Architects, Inc.	Electronic	04/26/2020	04/26/2020	1	50.00
6. Sullivan	Joann		94703 Berkeley	Realtor	Grubbo Co	Check	03/27/2020	03/27/2020	1	50.00
7. Scantlebury	Jane		94703 Berkeley	Retired	N/A	Check	03/27/2020	03/27/2020	1	50.00
8. Diverdi	Stephen		94703 Berkeley	Programmer	Adobe	Check	03/27/2020	03/27/2020	1	50.00
9. Levin	Jodi		94703 Berkeley	Digital Asset Manager	Autodesk	Check	03/27/2020	03/27/2020	1	50.00
10. Diverdi	Rachel		94703 Berkeley	Manager	Shippo	Check	03/13/2020	03/13/2020	1	50.00
11. Canavan	Mary		94709 Berkeley	Real Estate Broker	Grubb Co.	Check	03/13/2020	03/13/2020	1	50.00
12. Cowles	Daniel		94703 Berkeley	Exec. Creative Director	Adobe	Check	03/13/2020	03/13/2020	1	50.00
13. Bidwell	John		94702 Berkeley	Utility Analyst	SFPUC	Check	03/13/2020	03/13/2020	1	50.00
14. Lau	Jonathan		94703 Berkeley	Economic Development Official	San Francisco County	Check	03/13/2020	03/13/2020	1	50.00
15. Dellamaria	Katherine		94703 Berkeley	Public Health Nurse	San Francisco County	Check	03/13/2020	03/13/2020	1	50.00
									Subtotals	725.00

Last Name	First Name	Address	Zip Code, City	Occupation	Employer	Payment Method	Date Received	Date Deposited	Deposit Batch #	Amount of Contribution
16.	Nichols	Matthew	94703 Berkeley	Retired	N/A	Check	03/13/2020	03/13/2020	1	50.00
17.	Yep	Nancy	94707 Berkeley	Compliance Manager	MUFG Union Bank	Check	03/13/2020	03/13/2020	1	50.00
18.	Yep	Raymond	94707 Berkeley	Retired	N/A	Check	03/13/2020	03/13/2020	1	50.00
19.	Clarke	Margaret	94703 Berkeley	Self-Employed	Margi Clarke Consulting - Berkeley CA	Check	03/13/2020	03/13/2020	1	50.00
20.	Lewis	Matthew	94703 Berkeley	Communications	California YIMBY	Check	03/13/2020	03/13/2020	1	50.00
21.	Hunt	Judy	94710 Berkeley	Trustee	Berkeley Public Library	Check	02/28/2020	02/28/2020	1	50.00
22.	Waller	Peter	94704 Berkeley	Architect	PYATOK	Check	02/28/2020	02/28/2020	1	50.00
23.	Freedman	Marcia	94703 Berkeley	Retired	NONE	Check	02/28/2020	02/28/2020	1	50.00
24.	Soffa	David	94703 Berkeley	Architect	Clarke & Soffa	Check	02/14/2020	02/14/2020	1	50.00
25.	Clarke	Teresa	94703 Berkeley	Project Manager	Clarke & Soffa	Check	02/14/2020	02/14/2020	1	50.00
26.	Thagard	Elizabeth	94704 Berkeley	Teacher	Willow Garden Pre School	Check	02/14/2020	02/14/2020	1	50.00
27.	Marzuola	Sue	94704 Berkeley	Architect	Self-Employed	Check	02/14/2020	02/14/2020	1	50.00
28.	Granett	Ariella	94703 Berkeley	Architect	HKIT Architects, Oakland	Check	02/10/2020	02/10/2020	1	50.00
29.	Sheridan	Bhima	94703 Berkeley	Realtor	District Homes, Berkeley	Check	02/10/2020	02/10/2020	1	50.00
30.	Martinucci	Piero	94703 Berkeley	Retired	NONE	Check	02/05/2020	02/05/2020	1	50.00
31.	Martinucci	Jill	94703 Berkeley	Retired	NONE	Check	02/05/2020	02/05/2020	1	50.00
									Subtotals	800.00
									Grand Totals	1,525.00



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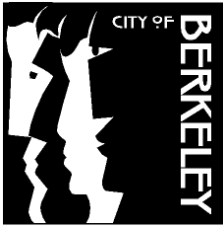
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**FAIR ELECTIONS ACT FORM**

**APPLICATION FOR PARTICIPATION  
 IN PUBLIC FINANCING PROGRAM**

(Berkeley Municipal Code Chapter 2.12 – Election Reform Act)

<b>OFFICE SOUGHT</b>		
OFFICE City Council	COUNCIL DISTRICT (IF APPLICABLE) 6	
ELECTION CYCLE 11/03/2020		
<b>CANDIDATE INFORMATION</b>		
LAST Illgen	FIRST Richard	M.I.
<b>COMMITTEE INFORMATION</b>		
NAME OF CAMPAIGN COMMITTEE Richard Illgen for City Council 2020		FPPC I.D. No. 1426347
<b>CANDIDATE CERTIFICATION</b>		
<p>Under penalty of perjury, I hereby certify:</p> <p>I have complied with the restrictions of Berkeley Municipal Code Chapter 2.12 (Election Reform Act) during the election cycle to date; and</p> <p>My campaign committee has filed all campaign finance reports required by law during the election cycle to date and that they are complete and accurate; and</p> <p>I will comply with the requirements of Chapter 2.12 during the remainder of the election cycle and, specifically, if certified as an eligible participating candidate, will comply with the requirements applicable to participating candidates.</p>		
Richard Illgen CANDIDATE SIGNATURE		06/03/2020 DATE SIGNED



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**FAIR ELECTIONS ACT FORM**  
**INITIAL QUALIFYING DECLARATION FOR PUBLIC FUNDS**  
**BY CANDIDATES FOR MAYOR OR CITY COUNCIL**

<b>OFFICE SOUGHT</b>			
OFFICE City Council		COUNCIL DISTRICT (IF APPLICABLE) District 6	
ELECTION CYCLE 11/03/2020			
<b>COMMITTEE INFORMATION</b>			
NAME OF CAMPAIGN COMMITTEE Richard Illgen for City Council 2020		FPPC I.D. No. 1426347	
STREET ADDRESS		APARTMENT/SUITE/FLOOR	
CITY Berkeley		STATE CA	ZIP CODE 94708
TELEPHONE (510) 853-7224	EMAIL ADDRESS rsillgen@cs.com		
<b>CANDIDATE DECLARATION</b>			
I hereby declare that the following information is true and correct: <ul style="list-style-type: none"> <li>• All information on the attached Qualified Contribution Receipts is complete and accurate to the best of my knowledge.</li> <li>• I understand that the Commission shall verify that the qualified contributions meet all of the requirements and restrictions prior to the disbursement of funds.</li> <li>• I understand that if I submit any contributions that are not from the person(s) identified on the receipt I shall be liable to pay the Fair Elections Fund the entire amount in addition to any penalties.</li> <li>• All Qualified Contributions, of any dollar amount, eligible for matching Fair Elections funds must be publically disclosed with the contributor information required under Sections 2.12.280 and 2.12.283.</li> <li>• I understand that all campaign filings must be current in order for a disbursement of Fair Election funds to be released.</li> </ul>			
Richard Illgen		06/03/2020	
CANDIDATE SIGNATURE		DATE SIGNED	

**ITEM 7**  
**Attachment 2**

**INITIAL QUALIFYING REQUEST FOR FAIR ELECTIONS FUNDS PAYMENT**

In order to participate in the Public Financing Program, a candidate must collect at least 30 Qualified Contributions from at least 30 unique contributors of at least \$10.00 and no more than \$50.00 each, for a total dollar amount of at least \$540.00.

All approved Qualified Contributions are matched at a 6:1 ratio. For all public matching funds requests, a candidate must submit the following documentation:

- Qualified Contributions List (below).
- Receipt for Qualified Contribution for Fair Elections Funds.
- Evidence of each contribution received, such as electronic copies of contributor checks, credit card authorizations, or online payment receipts.
- Electronic copies of itemized deposit slips.
- Complete contributor information (full name, address, occupation, and employer) as required by BERA and the Political Reform Act.

	Last Name	First Name	Address	Zip Code, City	Occupation	Employer	Payment Method	Date Received	Date Deposited	Deposit Batch #	Amount of Contribution
1.	Dodsworth	Fred		94709 Berkeley	Retired	Retired	Check	05/22/2020	05/27/2020	1	50.00
2.	Franklin	Linda		94709 Berkeley	Retired	Retired	Check	05/22/2020	05/27/2020	1	50.00
3.	Giles	Kattye		94702 Berkeley	Retired	Retired	Check	05/22/2020	05/27/2020	1	10.00
4.	Ultan	Lawanda		94708 Berkeley	Retired	Retired	Check	05/22/2020	05/27/2020	1	50.00
5.	Jain	Kiran		94707 Berkeley	Attorney	UNKNOWN	Check	05/22/2020	05/27/2020	1	50.00
6.	Patel	Shilen		94707 Berkeley	Development Director	California Water Company	Check	05/22/2020	05/27/2020	1	50.00
7.	Hammargren	Kelly		94703 Berkeley	Retired	Retired	Check	05/21/2020	05/27/2020	1	50.00
8.	Seligman	Kathryn		94707 Berkeley	Retired	Retired	Check	05/21/2020	05/27/2020	1	50.00
9.	Thorne-Lyman	Abigail		94702 Berkeley	Manager	BART	Check	05/18/2020	05/27/2020	1	50.00
10.	Wrenn	Rob		94705 Berkeley	Retired	Retired	Check	05/18/2020	05/27/2020	1	50.00
11.	Hall	David		94702 Berkeley	Attorney	East Bay Community Law Center	Check	05/18/2020	05/27/2020	1	50.00
12.	Finton	Joan		94709 Berkeley	Teacher/artist	Richmond Adult School	Check	05/17/2020	05/27/2020	1	50.00
13.	Fishman	Charlotte		94707 Berkeley	Retired	Retired	Check	05/16/2020	05/27/2020	1	10.00
14.	Woodcock	Charlene		94709 Berkeley	Retired	Retired	Check	05/16/2020	05/27/2020	1	50.00
15.	Sparer	Alan		94707 Berkeley	Attorney	Sparer Law Group, San Francisco	Check	05/16/2020	05/27/2020	1	50.00
										Subtotals	670.00

Last Name	First Name	Address	Zip Code, City	Occupation	Employer	Payment Method	Date Received	Date Deposited	Deposit Batch #	Amount of Contribution
16.	Blake	David	94703 Berkeley	Book designer	Self-employed	Check	05/14/2020	05/27/2020	1	50.00
17.	Hendry	James	94709 Berkeley	Civil Servant	City and County of San Francisco	Check	05/13/2020	05/27/2020	1	50.00
18.	Bloomfield	Cynthia	94708 Berkeley	Retired	Retired	Check	05/11/2020	05/27/2020	1	50.00
19.	Buitrago	Luz	94707 Berkeley	Attorney	California Rural Legal Assistance	Check	05/11/2020	05/27/2020	1	50.00
20.	McCormack	Ellie	94708 Berkeley	Retired	Retired	Check	05/10/2020	05/27/2020	1	50.00
21.	McCoy	Zachary	94703 Berkeley	Student	Not employed	Cash	05/09/2020	05/27/2020	1	50.00
22.	Miller	Robin	94707 Berkeley	Attorney	Self-employed, Law Office of Robin Miller, in Berkeley	Check	05/09/2020	05/27/2020	1	50.00
23.	Rossi	Daniel	94707 Berkeley	Retired	Retired	Check	05/09/2020	05/27/2020	1	50.00
24.	Callejo	Franchesca	94703-1215 Berkeley			Check	05/09/2020	05/27/2020	1	50.00
25.	Callejo-Brighton	Isabel	94703 Berkeley	Student	Not employed	Check	05/09/2020	05/27/2020	1	50.00
26.	Callejo-Brighton	Victor	94703 Berkeley	Self-employed	Caregiver	Check	05/09/2020	05/27/2020	1	50.00
27.	Brighton	James	94703 Berkeley	Lecturer	Cal State Sacramento	Check	05/09/2020	05/27/2020	1	50.00
28.	Fukson	Veronika	94706 Berkeley	Retired	Retired	Check	05/09/2020	05/27/2020	1	50.00
29.	Agerter	Linda	94705 Berkeley	Retired	Retired	Check	05/05/2020	05/05/2020	1	50.00
30.	Camps	Enid	94708 Berkeley	Attorney	State of California, San Francisco	Check	05/05/2020	05/05/2020	1	50.00
31.	Judd	Richard	94705 Berkeley	Retired	Retired	Check	05/05/2020	05/05/2020	1	50.00
32.	Miller	Alan	94708 Berkeley	Sales	Acronis, Inc.	Check	05/04/2020	05/05/2020	1	50.00
33.	Chema	Boona	94706 Berkeley	Retired	Retired	Check	04/07/2020	05/27/2020	1	50.00
									Subtotals	900.00
									Grand Totals	1,570.00



June 11, 2020

To: Fair Campaign Practices Commission

From: Sam Harvey, Secretary

Subject: Regulations defining a “minor violation” for staff approval of public financing program applications

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At its April 23, 2020 meeting, the Commission approved amendments to the Berkeley Election Reform Act (“BERA”) to allow staff to certify public financing applications without Commission action, with subsequent reporting to the Commission. The BERA amendments must be approved by the City Council before they become effective.

The Commission amended BMC § 2.12.500.A.10 as follows:

The ~~Commission~~City has the authority to approve a candidate's application for public financing, despite a violation by the candidate related to participation and qualification in the public financing program, if the violation is minor in scope and the candidate demonstrates a timely, good-faith effort to remedy the violation. The Commission ~~may~~shall adopt regulations setting forth guidelines for what constitutes a minor violation under this provision.

Staff recommends that the Commission discuss and provide guidance regarding the definition of a “minor violation” so that staff may return at a future meeting with proposed language for a regulation.

To aid this discussion, staff has attached a copy of BMC § 2.12.555 and FCPC Regulation R2.12.555. Under the City’s public financing laws, a person who commits a “substantial violation” of BERA is ineligible to receive public funds for a period of four years. (BMC § 2.12.555.) Regulation R2.12.555 was adopted by the Commission to define a “substantial violation.”



## **ITEM 8**

As of the date of this report, the BERA amendments have not been considered by Council, but have been scheduled to appear on the agenda for the Council's June 30, 2020 meeting.

Attachments:

1. BMC § 2.12.555 and FCPC Regulation R2.12.555

**2.12.555 Violation--Persons ineligible for public funds--Time limit.**

No person who commits a substantial violation of this chapter shall be eligible to receive public funds for a period of four years from and after the date that the Commission determines, upon a two-thirds vote, that such a violation has occurred, following a hearing held pursuant to Section [2.12.230](#). The Commission shall by regulation state the criteria to be satisfied in order to make a finding of a substantial violation. (Ord. 7524-NS § 3.6 (part), 2016)

**R2.12.555 Substantial Violation**

A violation is deemed to be substantial if the seriousness of the offense is severe and public harm is significant. Severity and significance will be determined by assessing the following factors:

- (1.) the dollar amount of the unreported or misreported violations;
- (2.) the presence or lack of intent to deceive the voting public;
- (3.) whether the violation appears deliberate, negligent, or inadvertent;
- (4.) whether the Respondent demonstrated good faith in consulting with Commission staff during any investigation or made good faith efforts to correct any deficiencies, violations, or errors;
- (5.) whether the violation was isolated or was part of a pattern of violations of this chapter by the candidate, either within the same election cycle or in past election cycles;
- (6.) the effect of the violation upon the election or upon the administration of the Fair Elections Act.



Open Government Commission

ACTION CALENDAR  
XXXXX XX, 2020

To: Honorable Mayor and Members of the City Council  
From: Open Government Commission  
Submitted by: Brad Smith, Chair, Open Government Commission  
Subject: Relinquishments and grants from Councilmembers' office budgets

RECOMMENDATION

Create a temporary advisory committee consisting of three (3) members each of the City Council and the Open Government Commission ("OGC") to enable discussion between the Council and the OGC to make recommendations governing relinquishments and grants from Councilmembers' office budgets.

FISCAL IMPACT OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The issue of D-13 accounts (Council Budget Funds) being used for purposes other than office expenses has been raised at the OGC. While commission members agree that it is admirable to donate to organizations that serve the City, some members feel the practice of using office budget funds for this purpose and attaching individual Councilmembers' names to the donation may provide unfair advantage to an incumbent.

The two main concerns identified by some commissioners with the current practice are:

1. Councilmembers are able to initiate grants to organizations, at their discretion, which may raise their public profile.
2. Attaching the name of a Councilmember to a grant from the City of Berkeley may confer an advantage for the incumbent over would-be challengers.

The current practice was established in the early 2000's because councilmembers were granting public money to individuals and organizations, without approval of the Council.

This led to a concern about the potential for corruption and favoritism. The City Attorney established the existing system, though because the councilmembers' names are attached to the grants, some concern remains.

From recent discussion at OGC, commissioners are in general agreement that ending the practice of attaching the name of a councilmember to a grant will help to alleviate the main concerns: 1 & 2 above. At the OGC's April 23, 2020 meeting, commissioners unanimously approved forwarding a recommendation to Council to not include the name of an individual councilmember attached to a discretionary grant.

A review of the grants and relinquishment of funds from city council members for 2019 amounts to \$30,130. These are funds that could have been used for office, travel (on city business) and other expenses.

Commission members have discussed recommending to Council for consideration options to address the issue:

1. An amendment requiring that all disbursements from the General Fund be designated as coming from the Council as a whole, without individual names attached to the donations.
2. Create another account specifically for discretionary grants, without reducing the D-13 account budget, to allow Councilmembers to continue recommending a grant or donation to a particular organization, without an individual name attached to the donation.
3. Eliminate discretionary grants. As currently allowed, Councilmembers may donate excess campaign funds to non-profits.

### BACKGROUND

On May 21, 2020, the OGC directed four of its members to draft a proposed recommendation to Council related to relinquishment of Councilmembers' office budget funds.

On June 18, 2020, the OGC voted to present this recommendation to Council.

### ENVIRONMENTAL SUSTAINABILITY

Not applicable.

### RATIONALE FOR RECOMMENDATION

An advisory committee will enable collaborative discussion between the Council and the OGC to make recommendations governing relinquishments and grants from Councilmembers' office budgets.

ALTERNATIVE ACTIONS CONSIDERED

The OGC has discussed recommending removal of councilmember names from office budget relinquishments, banning relinquishments for grants to organizations, and creating and funding a separate account for donations to organizations that Council would control, but which would not have councilmember names attached to it.

CONTACT PERSON

Brad Smith, Chair, Open Government Commission

Attachments:

1: Resolution

RESOLUTION NO. –N.S.

RESOLUTION CREATING A TEMPORARY JOINT ADVISORY COMMITTEE TO  
REVIEW COUNCIL OFFICE BUDGET RELINQUISHMENTS AND GRANTS

WHEREAS, pursuant to Berkeley Municipal Code § 2.06.190.A.2, the Open Government Commission (“OGC” or “Commission”) may “advise the City Council as to any . . . action or policy that it deems advisable to enhance open and effective government in Berkeley”; and

WHEREAS, while Commission members agree that it is admirable to donate to organizations that serve the City, some members feel the practice of using office budget funds for this purpose and attaching individual Councilmembers’ names to the donation may raise the public profile of a Councilmember and provide unfair advantage to an incumbent; and

WHEREAS, the Commission has expressed a desire to work collaboratively with the City Council to consider recommendations governing grants made from relinquishments of funds from Councilmembers’ office budgets.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that a temporary joint advisory committee consisting of three (3) members of the City Council and three (3) members of the Open Government Commission is hereby created to enable discussion between the Council and the OGC to make recommendations governing relinquishments and grants from Councilmembers’ office budgets.

BE IT FURTHER RESOLVED that the City Council and the Open Government Commission each shall, as soon as practicable and by majority vote, appoint three members to the committee created by this resolution.

BE IT FUTHER RESOLVED that the committee created by this resolution shall hold its first meeting within 60 days of passage of this resolution and at that first meeting shall determine the need for any subsequent meetings and shall adopt a schedule for any such subsequent meetings.