



Fair Campaign Practices Commission  
Open Government Commission

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

**MEETING AGENDA**

**February 18, 2021**

**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 information:

Please use the following link to join the meeting:

<https://us02web.zoom.us/j/88554543030>

Or Telephone: +1 669 900 6833

Meeting ID: 885 5454 3030

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:
  - a. January 21, 2021 FCPC Special Meeting
  - b. January 21, 2021 FCPC-OGC Concurrent Regular Meeting

**Fair Campaign Practices Commission (FCPC) Agenda**

5. Reports.
  - a. Report from Chair.
  - b. Report from Staff.
6. Complaint alleging violations of the Berkeley Election Reform Act by Re-Elect Mayor Jessie Arreguin 2020; discussion and possible action.

7. Complaint alleging violations of BERA by Rent Stabilization Board candidates Leah Simon-Weisberg, Mari Mendonca, Andy Kelley, Dominique Walker, and Xavier Johnson; discussion and possible action.
8. Enforcement referral from the City Clerk Department re Berkeley Community for Police Oversight Committee Supporting Police Commission Oversight Charter Amendment (ID # 1403502); discussion and possible action.
9. Complaint alleging violations of BERA by Compassionate Bay; discussion and possible action.
10. Remitting public financing funds in the event of returned contributions; discussion and possible action.

### **Open Government Commission (OGC) Agenda**

11. Reports.
  - a. Reports from Chair.
  - b. Reports from Staff.
12. Lobbying enforcement referrals and procedures; discussion and possible action.

### **Joint FCPC-OGC Agenda**

13. Report and discussion re Council Agenda & Rules Committee action on officeholder accounts and councilmember budget grants; discussion and action.
14. Election of 2021 Chair and Vice-Chair; discussion and possible action.
15. 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

## DRAFT MINUTES

January 21, 2021

### SPECIAL MEETING OF THE FAIR CAMPAIGN PRACTICES 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), Janis Ching, Dean Metzger, Patrick O'Donnell, Patrick Sheahan

Also Present: Samuel Harvey, Staff Secretary

1. **Call to Order**

Chair Called the meeting to order at 6:05 p.m.

2. **Roll Call**

Roll call taken.

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

One speaker

4. **Analysis of Berkeley Municipal Code section 2.12.335 and its applicability to candidate campaign committees, with ramifications for future FCPC consideration of the following pending enforcement matters: (1) Rent Stabilization Board candidates Bahman Ahmadi, Dan McDunn, Soulmaz Panahi, Wendy Saenz Hood Neufeld and Pawel Moldenhawer, (2) Re-Elect Mayor Jessie Arreguin 2020 and (3) Rent Stabilization Board candidates Leah Simon-Weisberg, Mari Mendonca, Andy Kelley, Dominique Walker, and Xavier Johnson**

- a. Public comment: two speakers.
- b. Commission discussion and action.

*Motion to adopt proposed regulation language amending R2.12.335 and renumbering to incorporate (M/S/C: O'Donnell/Metzger; Ayes: O'Donnell, Ching, Sheahan, Tsang, Smith, Metzger; Noes: none; Abstain: none; Absent: Blome, McLean.)*



*Motion to direct staff to return at future meeting with evaluation of BERA treatment of candidate slates and provide guidance about FCPC action (M/S/C: Metzger/Ching; Ayes: O'Donnell, Ching, Sheahan, Tsang, Smith, Metzger; Noes: none; Abstain: none; Absent: Blome, McLean.)*

5. **Adjournment**

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

The meeting adjourned at 6:55 p.m.



Fair Campaign Practices Commission  
Open Government Commission

## DRAFT MINUTES

January 21, 2021

### 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), Janis Ching, Dean Metzger, Patrick O'Donnell, Patrick Sheahan, Mark McLean

Also Present: Samuel Harvey, Staff Secretary / Deputy City Attorney  
Sarah Bunting, Assistant City Clerk  
April Richardson, Assistant City Clerk

1. **Call to Order**

Chair called the meeting to order at 7:03 p.m.

2. **Roll Call**

Roll call taken.

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

No speakers.

4. **Approval of minutes for the November 19, 2020 concurrent regular meeting**

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

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

**Fair Campaign Practices Commission (FCPC) Agenda**

5. **FCPC Reports**

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

6. **Complaint alleging violation of BERA Rent Stabilization Board candidates Bahman Ahmadi, Dan McDunn, Soulmaz Panahi, Wendy Saenz Hood Neufeld and Pawel Moldenhawer**

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

*Motion to direct staff to continue negotiating a stipulated settlement in the amount of \$10 per committee (M/S/C: Ching/O'Donnell; Ayes: Metzger, O'Donnell, Ching; Noes: Sheahan, McLean, Tsang, Smith; Abstain: none; Absent: Blome.)*

*Motion to uphold finding of probable cause of violation of BERA and dismiss enforcement matter (M/S/C: Sheahan/Tsang; Ayes: Metzger, O'Donnell, Ching, Sheahan, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: Blome.)*

7. **Complaint alleging violations of BERA by Wayne Hsiung for Mayor 2020 and Compassionate Bay**

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

*Motion to dismiss matter with regards to Wayne Hsiung for Mayor 2020 (M/S/C: O'Donnell/Tsang; Ayes: Metzger, O'Donnell, Ching, Sheahan, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: Blome.)*

8. **Enforcement referrals from the office of the City Clerk:**

**a. Re Berkeley Community for Police Oversight Committee Supporting Police Commission Oversight Charter Amendment (ID # 1403502)**

**b. Re Maria Poblet for Rent Board 2022 (ID # 1407904)**

- a. Public comment: Two speakers.
- b. Commission discussion and action.

*Motion to dismiss matter regarding Maria Poblet for Rent Board 2022 and keep matter open with regards to Berkeley Community for Police Oversight Committee Supporting*

*Police Commission Oversight Charter Amendment (M/S/C: Sheahan/McLean; Ayes: Metzger, O'Donnell, Ching, Sheahan, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: Blome.)*

9. **Referrals from the City Clerk re Public Finance Program campaigns; discussion and possible action:**

a. **Andrew for Berkeley Council 2020**

b. **Wayne Hsiung for Mayor 2020**

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

*Motion to dismiss action for Andrew for Berkeley Council 2020 and Wayne Hsiung for Mayor 2020 (M/S/C: Metzger/Sheahan; Ayes: Metzger, O'Donnell, Ching, Sheahan, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: Blome.)*

*Motion to direct staff to review BERA treatment of public matching funds for returned contributions and return with recommendation (M/S/C: Metzger/Ching; Ayes: Metzger, O'Donnell, Ching, Sheahan, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: Blome.)*

**Open Government Commission (OGC) Agenda**

10. **OGC Reports**

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

11. **Referral from the Office of the City Clerk re failure by multiple City lobbyists to file quarterly reports; possible creation of rules, procedures and regulations to guide the Lobbyist Registration Act enforcement process**

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

*Motion to have staff review Lobbying Ordinance enforcement sections and bring back analysis/recommendation regarding creation of enforcement procedures (M/S/C: Metzger/Ching; Ayes: Metzger, O'Donnell, Ching, Sheahan, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: Blome.)*

12. **Complaint filed by Martin and Olga Schwartz alleging violations of the Open Government Ordinance relating to Zoning Adjustments Board proceedings**

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

*Motion to direct staff to confer with ZAB secretary about potential changes to public communication posting policies and return with recommendation (M/S/C: Metzger/Ching; Ayes: Metzger, O'Donnell, Ching, Sheahan, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: Blome.)*

13. **Adopting 2021 FCPC-OGC regular meeting schedule**

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

*Motion to adopt 2021 FCPC-OGC regular meeting schedule (M/S/C: O'Donnell/Smith; Ayes: Metzger, O'Donnell, Ching, Sheahan, Tsang, Smith; Noes: none; Abstain: McLean; Absent: Blome.)*

13. **Adjournment**

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

The meeting adjourned at 10:05 p.m.



Fair Campaign Practices Commission

Date: February 18, 2021  
To: Fair Campaign Practices Commission  
From: Samuel Harvey, Secretary  
Subject: Complaint alleging violations of BERA by Re-Elect Mayor Jesse Arreguin 2020.

On October 15, 2020, Commission staff received the attached complaint alleging that campaign advertisements circulated by the campaign committee Re-Elect Mayor Jesse Arreguin 2020 (the “Committee”) failed to include the required disclosure language identifying the top funding sources for the committee. (Attachment 1) The complaint included images of internet advertisements, mailers and emails circulated by the Committee.

Section 2.12.335 of the Berkeley Election Reform Act (“BERA”) (BMC Chapter 2.12) provides that “campaign communications” supporting a candidate must include the name of the committee and the phrase “Major Funding Provided By” followed by the name of the committee’s top four contributors over \$250 as well as the total contributions and city of domicile for each top contributor.

BERA defines a “contribution” to include loans as well as “a candidate’s own money or property used on behalf of his or her candidacy.” (BMC § 2.12.200.)

The following “campaign communications” are subject to the disclaimer requirements of BMC § 2.12.335:

1. One thousand or more substantially similar pieces of campaign literature, including but not limited to mailers, flyers, pamphlets, and door hangers;
2. Paid advertisements, including but not limited to advertisements in newspapers, magazines, and on the Internet;
3. One thousand or more substantially similar e-mails or pre-recorded telephone calls made within a calendar month.

According to the Committee’s campaign statement (Form 460) covering the period from September 20, 2020 to October 17, 2020, Mayor Jesse Arreguin contributed to his own campaign in the following amounts:

- \$10,000 loan (8/11/2020)

February 18, 2021

Page 2 Re: Re-Elect Mayor Jesse Arreguin 2020.

- \$3,000 loan (9/29/2020)
- \$260 contribution (10/6/2020)
- \$1,500 contribution (10/15/2020)

As the attached Mass Mailing Index (Attachment 2) compiled by the City Clerk based upon reported mass mailings distributed by each campaign committee indicates, Mayor Arreguin's campaign circulated one mass mailing on October 6, 2020. This mailing is included in pages 8 and 9 of Attachment 1. Additionally, the complaint includes screenshots of three internet advertisements (Attachment 1, pp. 4-6).

The mailing and internet advertisements each include the following disclaimer:

Paid for by Re-Elect Mayor Jesse Arreguin 2020

Because the candidate has contributed more than \$250 to his campaign committee, the disclaimer on these advertisements should have included the following language:

Major funding provided by Jesse Arreguin, \$[amount contributed]<sup>1</sup>, Berkeley, CA

Based on the failure of the committee's advertisements to include this language, staff asserts that there is probable cause to believe that one or more violations of BERA has occurred.

At this stage in the enforcement process, the Commission may take any of the following actions:

1. The Commission may dismiss the matter (by majority vote) and proceed no further if evidence of any violation is insufficient or unreliable or if the possible violation has only a slight impact on the administration of BERA and/or the outcome of any election that further proceeding would be an inefficient use of resources.
2. The Commission may determine that probable cause exists to believe that the BERA has been violated. Probable cause exists when based on the circumstances presented there is a reasonable basis on which to believe that a violation of the BERA has occurred.

(FCPC Procedures VI.B.)

If the Commission determines that probable cause exists to believe BERA has been violated, the Commission may take any of the following courses of action:

- a. Dismiss the complaint, where appropriate, and take no further action.

---

<sup>1</sup> The dollar amount in any given disclaimer would be determined by the amount of contributions made at the time of the advertisement.

February 18, 2021

Page 3 Re: Re-Elect Mayor Jesse Arreguin 2020.

- b. Request the Secretary conduct further investigation, including an audit of campaign records;
- c. Require the timely filing of campaign statements and/or amendments to campaign statements if the probable violation involves an error and/or an omission on a campaign statement that has been filed, or if it involves the failure to file a campaign statement as required;
- d. Invite the respondents to participate in settlement negotiations. The Commission may request that the Secretary participate in negotiations on behalf of the Commission. Alternatively, the Chairperson may appoint a negotiating committee, which shall be guided by the Commission regarding the desired outcome of the settlement. Any settlement reached by the Secretary or negotiating committee and respondent(s) shall be presented to the commission for approval. Negotiations between the designated negotiator or negotiating committee and the respondent shall be confidential. Only the negotiated draft settlement agreement, or the fact of an impasse, shall be shared with the Commission.
- e. Schedule and conduct a hearing pursuant to Section 2.12.230 of BERA . . .
- f. Ask the City Attorney or the District Attorney to seek legal remedies.
- g. Seek any other remedy within its authority.

(FCPC Procedures VI.C.2.)

Upon a finding of probable cause, the Commission's procedures direct the Commission to take the following into consideration when determining what course of action to take:

- a. Its policies, procedures, regulations, and past actions in similar situations.
- b. The amount of experience of the candidate, if any, and treasurer in campaign reporting, the history or absence of other campaign violations, and the degree to which these persons made good faith efforts to correct any relevant reporting deficiencies.
- c. The presence, if any, of an apparent intent to conceal, deceive or mislead.
- d. Whether the probable violation appears deliberate, negligent or inadvertent.
- e. The effect of the probable violation upon the election or upon the administration of BERA

(FCPC Procedures VI.C.1.)

The Commission has reviewed BMC § 2.12.335 during this election cycle as multiple complaints have been received alleging similar violations. At a January 21, 2021 special



February 18, 2021

Page 4 Re: Re-Elect Mayor Jesse Arreguin 2020.

meeting, the Commission reviewed the legislative history of section 2.12.325. (See Attachment 3.) Specifically, the Commission reviewed whether section 2.12.335 was intended to apply where a candidate contributes to their own committee. As the staff report provided for that meeting indicates, the FCPC and Council considered but ultimately rejected an express exemption from section 2.12.335 for candidate committees, clearly indicating that where a candidate contributes over \$250 to their own committee, that contribution should be disclosed on the committee's campaign communications.

At a January 21, 2021 Special Meeting, recognizing that there has been confusion among committees and the public about the applicability of section 2.12.335 to candidate committees, the Commission adopted regulation language making clear that BERA section 2.12.335 applies to candidate committees where the candidate contributes or loans over \$250 to their own committee.

The Commission has resolved one other enforcement matter this election cycle involving a similar violation of section 2.12.335. In that matter, a slate of rent board candidates initially failed to include a disclaimer on their joint website then ultimately included a disclaimer which omitted a contribution from one of the candidates to their own campaign. The Commission made a finding of probable cause in that matter, but determined, based upon the confusion surrounding the interpretation of section 2.12.335 and the apparent good faith by the candidates to comply with BERA, that the matter should be dismissed.

Staff believes it would be appropriate for the Commission to take similar action in this matter. However, in contrast to the rent board slate, candidate Jesse Arreguin is an experienced candidate, currently serving as Mayor, who was a city councilmember who voted on the approval of section 2.12.335 when it was approved by the City Council in 2012. These factors can be taken into consideration by the Commission when determining the appropriate action to take on this matter.

Attachments:

1. Staff Report, Nov. 12, 2020, including complaint, attachments and excerpts from committee campaign statements (Form 460)
2. Mass Mailing Index excerpt.
3. January 21, 2021 FCPC Special Meeting Staff Report.



Fair Campaign Practices Commission

Date: November 12, 2020  
To: Fair Campaign Practices Commission  
From: Samuel Harvey, Secretary  
Subject: Complaint alleging violation of BERA by Re-Elect Mayor Jesse Arreguin 2020.

On October 15, 2020, Commission staff received the attached complaint alleging that campaign advertisements circulated by the campaign committee Re-Elect Mayor Jesse Arreguin 2020 (the “Committee”) failed to include the required disclosure language identifying the top funding sources for the committee on multiple campaign communications. The complaint includes images of internet advertisements, mailers and emails circulated by the Committee.

Section 2.12.335 of the Berkeley Election Reform Act (“BERA”) (BMC Chapter 2.12) provides that:

- A. Campaign communications supporting or opposing any candidate or measure shall include the name of the committee and the phrase “Major Funding Provided By” immediately followed by the name of the contributor, the city of domicile, and the total cumulative sum of contributions by each of the top four contributors over \$250 to the committee funding the expenditure made within six months of the expenditure. . . .
- B. The disclosures required by this section shall list contributors in descending order by the cumulative total amount of their contributions and shall be presented in a clear and conspicuous manner to give the reader, observer, or listener adequate notice. For all communications, the complete name of the contributor must be listed. No acronyms may be used. For purposes of this section, “campaign communication” means any of the following items:
  - 1. One thousand or more substantially similar pieces of campaign literature, including but not limited to mailers, flyers, pamphlets, and door hangers;
  - 2. Paid advertisements, including but not limited to advertisements in newspapers, magazines, and on the Internet;
  - 3. One thousand or more substantially similar e-mails or pre-recorded telephone calls made within a calendar month.

November 12, 2020

Page 2 Re: Re-Elect Mayor Jesse Arreguin 2020.

BERA defines a “contribution” to include loans as well as “a candidate’s own money or property used on behalf of his or her candidacy.” (BMC § 2.12.200.)

According to the Committee’s campaign statement (Form 460) covering the period from September 20, 2020 to October 17, 2020, Mayor Jesse Arreguin has contributed \$15,010 to his own campaign. It therefore appears that one or more of the advertisements which are the subject of this complaint may have failed to include an appropriate disclaimer. However, staff will need to verify the actual language used on the subject advertisements and review campaign disclosures to determine the extent of the Committee’s obligations for disclosing contributions received and to identify the precise language required for the disclaimer. Staff will also need to verify the number of advertisements published or circulated which may have failed to include language required by BERA.

Under the Commission’s Procedures, at this stage, the Commission may (1) direct the Secretary to investigate the complaint, to the extent the Secretary has not already done so; (2) dismiss the complaint; or (c) find probable cause to believe BERA has been violated. (FCPC Procedures Section V.B.2.) Staff recommends the Commission direct the Secretary to investigate the complaint further and return at a future meeting with a subsequent report. Staff believes, based upon initial review, that the evidence provided in the complaint is sufficient such that the complaint should not be dismissed, but is insufficient to support a finding of probable cause of a violation at this stage.

Attachments:

1. Complaint of Jeffrey Davidson and attachments
2. Excerpts from Re-Elect Mayor Arreguin Jesse 2020 Campaign Statement (Form 460) (9/20/20 – 10/17/20)



Fair Campaign Practices Commission

## Complaint of Noncompliance Berkeley Election Reform Act ("BERA")\*

Full Name: Jeffrey Davidson  
 Date: 10/16/2020  
 Address: [REDACTED]  
 E-mail (optional but suggested): wayneformayor2020@gmail.com  
 Phone (optional but suggested): (510) 680-0101

Party or parties alleged to have committed or are about to commit a violation of BERA:  
Re-Elect Mayor Jesse Arreguin 2020 Committee

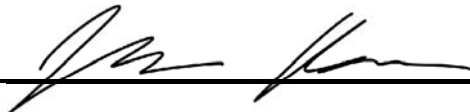
Clear, concise and accurate statement of the facts that constitute the violation of BERA.  
 If additional space is needed, you may attach additional pages:

On August 11, 2020, Mayor Arreguin loaned \$10,000 to his Re-Election Committee, as evidenced by the committee's Form 497 filing of the same date.  
On September 29, 2020, Mayor Arreguin donated \$3,000 to his Re-Election Committee, as evidenced by the committee's Form 497 filing of the same date.  
To date, Mayor Arreguin has contributed at least \$13,000 to his Re-Election Committee.  
Section 2.12.335 of the Berkeley Municipal Code requires committees to disclose "the total cumulative sum of contributions by each of the top four contributors over \$250 to the committee funding the expenditure made within six months of the expenditure" on certain campaign communications. The disclosure requires the donor's full name and city of domicile.  
To the best of my knowledge, the Re-Election Committee has on numerous occasions run paid online advertisements and distributed one thousand or more substantially similar emails that fail to disclose the \$13,000 of contributions Mayor Arreguin has made to his Re-Election Committee. It additionally distributed at least one printed flyer. Examples of emails, a flyer, and recent Facebook ads are attached.  
I believe the attached documentation, dated after both contributions by Mayor Arreguin, constitute examples that violate 2.12.335. Others may exist that we are not aware of. I respectfully request that you investigate this matter.

Documents: Attach any documentation supporting the facts alleged.

Statements that are not based upon personal knowledge should identify the source of information that gives rise to the complainant's belief in the truth of such statements.

***I declare under penalty of perjury under the laws of the State of California that all information submitted hereon and in the attachments is true and correct.***

Signature  Date 10/16/2020

\*Use this "Complaint of Noncompliance" form to allege a violation of BERA pursuant to Berkeley Municipal Code Section 2.12.225 and the *Procedures of the Fair Campaign Practices Commission*.

**ITEM 9**  
**Attachment 1**

✓ Active

Started running on Oct 12, 2020

ID: 2821751901369494



**Berkeley Mayor Jesse Arreguin**

Sponsored • Paid for by RE-ELECT MAYOR JESSE ARREGUIN 2020

Berkeley is uniting to re-elect Mayor Jesse Arreguin so he can keep leading Berkeley through challenging times.



Re-Elect  
Mayor Jess...

[Learn More](#)

Re-Elect  
Mayor Jess...

[Learn More](#)

Vote by Nov. 3!

Vote by Nov. 3!

ITEM 9  
Attachment 1



**Berkeley Mayor Jesse Arreguin**

Sponsored • Paid for by RE-ELECT MAYOR JESSE ARREGUIN 2020

Sierra Club endorses Mayor Jesse Arreguin. He's bringing a Green New Deal to Berkeley & making us fossil fuel free by 2030.

Mayor Arreguin's model environmental leadership is making a difference:

- Mayor Arreguin helped Berkeley gain access to 100% renewable power.
- Under his leadership, Berkeley is phasing out single-use disposable foodware in restaurants and natural gas in new buildings, with both policies becoming national models.
- The Mayor helped Berkeley make our largest ever investment in wildfire prevention.



JESSE.VOTE

Re-Elect Mayor Jesse Arreguin  
Vote By Nov 3!

[Learn More](#)

✓ Active

Attachment 1

Attachment 1

Started running on Oct 12, 2020

ID: 456111348705813



**Berkeley Mayor Jesse Arreguin**

Sponsored • Paid for by RE-ELECT MAYOR JESSE ARREGUIN 2020

To my fellow Berkeleyans,

In 2016, you entrusted me to be Mayor of this exceptional city. It's an honor to lead a community that always stands for democracy, equity, and justice.

When I took office, we couldn't have imagined the challenges we would face. From the pandemic, to white supremacists marching in our streets, to rapidly accelerating climate change and devastating wildfires and air quality. And we couldn't have foreseen this new opportunity we would have to finally move our city, state, and nation forward in the march toward true racial justice and equality.

2020 is a time of urgency, and we've got no time to wait. In the absence of federal leadership, it's more critical than ever for cities like Berkeley to step up and take the lead. Please read my personal message about the bold action we are taking to address the biggest challenges of our time.

And please feel free to email me about anything at [jesse@jesse.vote](mailto:jesse@jesse.vote).

Please continue to stay safe out there.

Jesse



Read the Mayor's...

[Learn More](#)

Read the Mayor's...

[Learn More](#)

Vote By Nov 3!

Vote by Nov. 3!

1400 Shattuck Avenue  
Berkeley CA 94707



WE ALL SUPPORT COUNCILMEMBER AND VICE MAYOR  
**Sophie Hahn** FOR RE-ELECTION!



**Tony Thurmond**  
State Superintendent  
of Public Instruction



**Betty Yee**  
State Controller



**Fiona Ma**  
State Treasurer



**Keith Carson**  
County Supervisor



**L. Karen Monroe**  
County Superintendent  
of Schools



**Jesse Arreguin**  
Berkeley Mayor



**Shirley Dean**  
Former Berkeley  
Mayor



**Judy Appel**  
School Board President



**Paola Laverde**  
Rent Board  
President



**Lateefah Simon**  
BART Board President



Cher Panisse Owner  
and Edible Schoolyard  
Founder Alice Waters  
State Superintendent of  
Public Instruction Delaine  
Eastin (Ret.)  
Councilmember Susan Wengraf  
Councilmember Kate Harrison  
Councilmember Ben Bartlett  
Councilmember Rigel Robinson  
Councilmember  
Gordon Wozniak (Ret.)  
School Board Vice President  
Ty Alper  
School Board Member  
Ka'Dijah Brown  
School Board Member  
Julie Sinal  
Library Trustees President  
John Selawsky  
Library Trustee  
Diane Davenport  
Rent Board Vice Chair Leah  
Simon-Weisberg



Rent Board Commissioner  
Igor Tregub  
Rent Board Commissioner  
Soli Alpert  
Rent Board Commissioner  
James Chang  
Rent Board Commissioner  
Maria Poblet  
East Bay Municipal Utility  
District Director Andy Katz  
BART Director Rebecca  
Saltzman  
Peralta Community College  
Trustee Karen Weinstein  
Peralta Community College  
Trustee Nicky Gonzalez Yuen  
Oakland Mayor Libby Schaaf  
Oakland Councilmember  
Dan Kalb  
Albany Mayor Nick Plich  
Albany Vice Mayor  
Peggy McQuaid  
El Cerrito Mayor Gabriel Quinto

Soiano Business  
Improvement District  
Chair Kate Campbell King  
Zoning Board Chair  
Shoshana O'Keefe  
Planning Commission  
Vice Chair Mary Kay Lacey  
Housing Advisory  
Commission Chair  
Xavier Johnson  
Parks & Waterfront Commission  
Chair Jim McGrath  
Parks & Waterfront  
Commissioner Brennen Cox  
Police Review Commission  
Chair Kitty Calavita  
Commission on the  
Status of Women Chair  
Jennifer Shanowski  
Landmarks Preservation  
Commission Chair  
Christopher Adams  
Civic Arts Commission  
Chair Lisa Bullwinkel  
Human Welfare & Community  
Action Commission Chair  
Samuel Cohn  
Zero Waste Commission Vice  
Chair Chrise de Touray  
Planning Commission  
Ben Beach

(PARTIAL LIST)

PRSRD STD  
US POSTAGE  
PAID  
Pacific Print  
Resources



# re-elect mayor jesse jarrequín leading berkeley forward »»



Mayor Jesse Arreguin's leadership during these unprecedented times has earned him support from:



Governor  
Gavin Newsom



Former U.S. Labor  
Secretary Robert Reich



Assemblymember  
Buffy Wicks



Berkeley Firefighters  
Association

# Get all support for Mayor Jesse Arreguin FOR RE-ELECTION!



**Betty Yee**  
State Controller



**Tony Thurmond**  
State Superintendent of Public Instruction



**Fiona Ma**  
State Treasurer



**Malia Cohen**  
State Board of Equalization Chair



**Buffy Wicks**  
Assemblymember



**Keith Carson**  
County Supervisor



**Nancy O'Malley**  
District Attorney



**Sophie Hahn**  
Vice Mayor



**Ben Bartlett**  
Councilmember



**Kate Harrison**  
Councilmember



**Susan Wengraf**  
Councilmember



**Rigel Robinson**  
Councilmember



**Lori Droste**  
Councilmember



**Tom Bates**  
Former Mayor



**Judy Appel**  
School Board President



**Ka'Dijah Brown**  
School Board Member



**Beatriz Leyva-Cutler**  
School Board Member



**James Chang**  
Berl Board Commissioner





"The city of Berkeley has long been at the forefront of progressive leadership, and today, Mayor Jesse Arreguin is leading Berkeley forward, standing up to Donald Trump, and delivering real results."

— Governor Gavin Newsom





"Berkeley is in excellent hands with Mayor Jesse Arreguin at the helm. He has been a true champion for working families."

— Former U.S. Labor Secretary Robert Reich

please stay safe    
Wear a mask, wash your hands, and socially distance.  
For COVID resources, visit:  
[www.cityofberkeley.info/covid-19](http://www.cityofberkeley.info/covid-19)

**By November 3, Re-Elect Mayor Jesse Arreguin!**

[www.jesse.vote](http://www.jesse.vote)  

Paid for by Re-Elect Mayor Jesse Arreguin 2020, FPPC ID # 1409567



Jeffrey Davidson &lt;jeffdavidson53@gmail.com&gt;

**Fwd: Setting the Record Straight**

1 message

**Leighton Woodhouse** <lwoodhouse@gmail.com>  
To: jeff@wayneformayor.com

Wed, Oct 14, 2020 at 3:24 AM

----- Forwarded message -----

From: **Mayor Jesse Arreguin** <jesse@jesse.vote>  
Date: Wed, Sep 30, 2020 at 10:08 AM  
Subject: Setting the Record Straight  
To: Leighton Woodhouse <lwoodhouse@gmail.com>



Leighton —

This weekend, many voters in Berkeley received a misleading hit piece against me from my opponent, Wayne Hsiung. I wanted to write to set the record straight, and hope you can share this information with anyone you know who might be questioning the claims made by Wayne's campaign.

On Money in Politics: While Wayne is taking public financing - a system I helped create - the majority of his donors are from outside of Berkeley. According to *Berkeleyside*, only 25% of his donors are Berkeley residents. The bulk of our donors are Berkeley residents, in addition to donations from labor unions representing trades people, nurses, and working families. Our campaign is endorsed by nearly every elected official and organization in the area, including 7 of the 8 City Councilpeople. I believe this shows the breadth of our support and an affirmation of the work we've done to build consensus in Berkeley.

On Wildfires and Climate Change: The plan Wayne references in his mailer is the 2006 ballot measure, Measure G, approved by over 80% of Berkeley voters. Since that time, the climate crisis has worsened dramatically. In 2018, I voted to declare a Climate Emergency, and set a goal to achieve carbon neutrality in Berkeley by 2030. Under my leadership, Berkeley is advancing a Green New Deal:

- Berkeley became the first city in the country to phase out throw-away plastics and ban natural gas in new buildings. Both policies have become national models.
- The City continues to prioritize electric vehicles, public transit, biking, and walking.
- As a board member for East Bay Community Energy, I helped our community gain access to 100% renewable power at affordable prices.
- I also led efforts to allocate over \$1 million towards wildfire mitigation, including reducing hazardous fire fuels, vegetation management, clearing paths, and emergency preparedness. This is the largest investment in wildfire prevention our city has ever made.

I'm honored to be the only candidate for Mayor endorsed by Sierra Club and the League of Conservation Voters of the East Bay.

Additionally, Wayne's promise to achieve carbon neutrality by 2025 is unrealistic and is based on his other promise to implement a \$2.5 billion wealth tax. He has provided no explanation for the \$2.5 billion number, or how this tax can be implemented legally or practically.

Police Reform: Contrary to what Wayne claims, I voted to let an 8-person team of Berkeley Police officers, as well as our Firefighters, attend a disaster preparedness and emergency response training, which trains first responders in how to address active shooter incidents and bomb threats, and how to respond to natural disasters such as wildfire and earthquake threats. Don't we want our first responders to be prepared?

My administration is also leading Berkeley's efforts to reimagine public safety and reduce the size of our Police Department budget. I recently voted to strengthen our Police Use of Force Policy to ban the types of control hold that killed George Floyd, and require more public reporting of any police use of force. I'm also currently leading a community process to address racial disparities in police stops. Lastly, I wrote Measure II on the November ballot to create an independent civilian Police Accountability Board.

Homelessness: The proposal Wayne references was intended to prevent objects from blocking access to BART station entrances and other public sidewalks. I crafted a sidewalk policy which allows the unhoused to sleep on sidewalks, but ensures that their objects do not block the sidewalk, to allow safe passage for people in wheelchairs, strollers, and pedestrians. I strongly oppose the "criminalization" of those experiencing homelessness and I'm proud of my administration's bold leadership on homelessness:

- Under my leadership, Berkeley has doubled the number of emergency shelter beds in our city.

- We expanded emergency housing assistance and rent subsidies to keep people on the verge of homelessness from losing their homes.
- I led the creation of the STAIR Center, the East Bay's first low-barrier 24-hour-a-day shelter, which provides job assistance, mental health, and substance abuse treatments, and has moved more than 250 people from the streets to permanent housing.
- I wrote and passed Measure P in 2018, generating millions of dollars for rent subsidies, shelter expansion, street health services, and mental health outreach.
- We have allocated millions for one-time housing retention grants, legal representation, and flexible housing funds to help people avoid homelessness.

I am proud of my record as Mayor over the past four years and humbly ask for your support and your vote for a second term. Please forward this on to your Berkeley friends and neighbors to help set the record straight.

And anyone can reach out to me at any time at [jesse@jesse.vote](mailto:jesse@jesse.vote).

Thanks for reading.

Jesse

[donate](#)

[jesse.vote](#)



Paid for by Re-Elect Mayor Jesse Arreguín 2020, FPPC ID # 1409567

This email was sent to [lwoodhouse@gmail.com](mailto:lwoodhouse@gmail.com).  
Hate to lose you, but you can unsubscribe by clicking [here](#).

Created with NationBuilder, software for leaders.



Jeffrey Davidson &lt;jeffdavidson53@gmail.com&gt;

**Fwd: Share the Facts About Wayne Hsiung**

1 message

**Leighton Woodhouse** <lwoodhouse@gmail.com>  
To: jeff@wayneformayor.com

Wed, Oct 14, 2020 at 3:24 AM

----- Forwarded message -----

From: **Mayor Jesse Arreguin** <jesse@jesse.vote>  
Date: Mon, Oct 12, 2020 at 12:44 PM  
Subject: Share the Facts About Wayne Hsiung  
To: Leighton Woodhouse <lwoodhouse@gmail.com>



Leighton —

Last week, *Berkeleyside* published an in-depth story about my opponent, Wayne Hsiung.

Wayne is running a deceptive campaign and not being truthful about his past, his record, or his true agenda. I encourage every Berkeley voter to read the *Berkeleyside* story before you vote.

**You can see the article here.**

**Please share it with everyone you know in Berkeley.**

Thanks so much for your support.

Jesse

donate

jesse.vote



Paid for by Re-Elect Mayor Jesse Arreguín 2020, FPPC ID # 1409567

This email was sent to lwoodhouse@gmail.com.  
Hate to lose you, but you can unsubscribe by clicking here.

Created with NationBuilder, software for leaders.



Jeffrey Davidson <jeffdavidson53@gmail.com>

**Fwd: We are under attack**

1 message

**Leighton Woodhouse** <lwoodhouse@gmail.com>  
To: jeff@wayneformayor.com

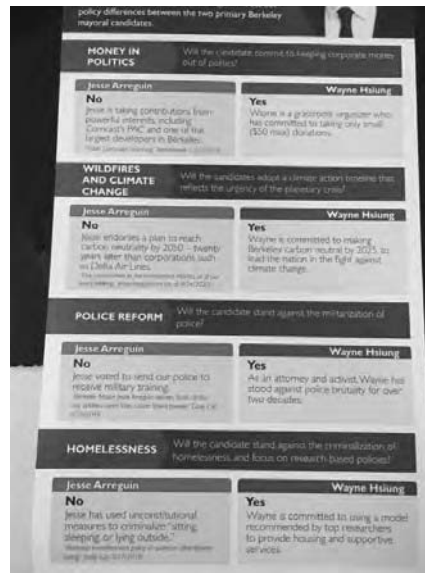
Wed, Oct 14, 2020 at 3:24 AM

----- Forwarded message -----  
From: **Mayor Jesse Arreguin** <jesse@jesse.vote>  
Date: Sun, Sep 27, 2020 at 2:47 PM  
Subject: We are under attack  
To: Leighton Woodhouse <lwoodhouse@gmail.com>



Leighton —

Many Berkeley voters opened their doors this weekend to find a doorhanger from my opponent Wayne Hsiung full of falsehoods against me.



Wayne Hsiung is running for Mayor full-time. And he has knocked on thousands of doors (our campaign is taking the safe approach, doing lit drops without door knocking).



While Wayne doesn't have a record of leadership in Berkeley, he does have the time to campaign full-time that I don't have because I am focused on tackling the many crises facing us at City Hall.

We can't get complacent. I need your support over these final 37 days before Election Day.

**Please click here to donate up to \$250 right now to help us get our message out. If you've already maxed out, thank you! Please know that spouses and family members can also donate.**

We are also calling and texting voters throughout Berkeley (you can do it from the comfort of your own home) and we are safely dropping literature on neighbors' doors (without knocking).

**Please click here to sign up to volunteer and a member of my campaign team will get right back to you to plug you into our voter outreach program.**

Thanks so much for your support and for helping us finish strong. Let's go win!

Jesse

[donate](#)

[jesse.vote](#)



Paid for by Re-Elect Mayor Jesse Arreguín 2020, FPPC ID # 1409567

This email was sent to [lwoodhouse@gmail.com](mailto:lwoodhouse@gmail.com).  
Hate to lose you, but you can unsubscribe by clicking [here](#).

Created with NationBuilder, software for leaders.

# ITEM 9 Attachment 2

## Schedule A (Continuation Sheet) Monetary Contributions Received

SCHEDULE A (CONT.)

Amounts may be rounded  
to whole dollars.

Statement covers period  
from 09/20/2020  
through 10/17/2020

Page 5 of 58

**CALIFORNIA  
FORM 460**

NAME OF FILER  
Re-Elect Mayor Jesse Arreguin 2020

I.D. NUMBER  
1409567

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CONTRIBUTOR CODE *	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	AMOUNT RECEIVED THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
09/23/2020	Humberto Arreguin Daly City, CA 94015	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Equipment Technician III Specialized Equipment San Francisco State University	50.00	100.00	G2020 \$100.00
10/06/2020	Jesse Arreguin Berkeley, CA 94709 Berkeley Times - Advertisement	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Mayor City of Berkeley, CA	260.00	14,760.00	G2020 \$15,010.00
10/15/2020	Jesse Arreguin Berkeley, CA 94709	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Mayor City of Berkeley, CA	1,500.00	14,760.00	G2020 \$15,010.00
09/30/2020	Aref Aziz Sacramento, CA 95814	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Marketing and Communications Consultant Statehouse Media	100.00	100.00	G2020 \$100.00
10/04/2020	Michael Baker Berkeley, CA 94705	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Retired N/A	250.00	250.00	G2020 \$250.00
<b>SUBTOTAL \$</b>				<b>2,160.00</b>		

Attachment 1

\*Contributor Codes  
IND - Individual  
COM - Recipient Committee  
(other than PTY or SCC)  
OTH - Other (e.g., business entity)  
PTY - Political Party  
SCC - Small Contributor Committee

# ITEM 9 Attachment 2

## Schedule B – Part 1 Loans Received

Amounts may be rounded  
to whole dollars.

SCHEDULE B - PART 1

Statement covers period  
from 09/20/2020  
through 10/17/2020

SEE INSTRUCTIONS ON REVERSE  
NAME OF FILER

Page 35 of 58

Re-Elect Mayor Jesse Arreguin 2020

I.D. NUMBER

1409567

IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	(a) OUTSTANDING BALANCE BEGINNING THIS PERIOD	(b) AMOUNT RECEIVED THIS PERIOD	(c) AMOUNT PAID OR FORGIVEN THIS PERIOD*	(d) OUTSTANDING BALANCE AT CLOSE OF THIS PERIOD	(e) INTEREST PAID THIS PERIOD	(f) ORIGINAL AMOUNT OF LOAN	(g) CUMULATIVE CONTRIBUTIONS TO DATE
Jesse Arreguin Berkeley, CA 94709 This is a Loan	Mayor City of Berkeley, CA	\$ 10,000.00	\$ 0.00	<input type="checkbox"/> PAID \$ 0.00 <input type="checkbox"/> FORGIVEN	\$ 10,000.00 DATE DUE	0.00 % RATE	\$ 10,000.00 DATE INCURRED 08/11/2020	\$ 14,760.00 PERELECTION** \$ 15,010.00
Jesse Arreguin Berkeley, CA 94709	Mayor City of Berkeley, CA	\$ 0.00	\$ 3,000.00	<input type="checkbox"/> PAID \$ 0.00 <input type="checkbox"/> FORGIVEN	\$ 3,000.00 DATE DUE	0.00 % RATE	\$ 3,000.00 DATE INCURRED 09/29/2020	\$ 14,760.00 PERELECTION** \$ 15,010.00
		\$	\$	<input type="checkbox"/> PAID \$ <input type="checkbox"/> FORGIVEN	\$ DATE DUE	% RATE	\$ DATE INCURRED	\$ PERELECTION** \$
<b>SUBTOTALS \$</b>		<b>3,000.00 \$</b>	<b>0.00 \$</b>	<b>0.00 \$</b>	<b>13,000.00 \$</b>	<b>0.00</b>	<b>0.00</b>	

(Enter (e) on  
Schedule E, Line 3)

### Schedule B Summary

- Loans received this period ..... \$  
(Total Column (b) plus unitemized loans of less than \$100.)
- Loans paid or forgiven this period ..... \$  
(Total Column (c) plus loans under \$100 paid or forgiven.)  
(Include loans paid by a third party that are also itemized on Schedule A.)
- Net change this period. (Subtract Line 2 from Line 1.) ..... **NET \$**  
Enter the net here and on the Summary Page, Column A, Line 2.

\*Amounts forgiven or paid by another party also must be reported on Schedule A.  
\*\* If required.

Attachment 1

†Contributor Codes  
IND – Individual  
COM – Recipient Committee  
(other than PTY or SCC)  
OTH – Other (e.g., business entity)  
PTY – Political Party  
SCC – Small Contributor Committee

## **Mass Mailings Index**

---

### **Ahmadi, Bahman**

<b>Mailing Number</b>	<b>Description</b>	<b>Date Mailed</b>	<b>Pieces</b>
1	Homeowners for Rent Board Postcard Mailing	10/9/2020	1
2	Homeowners for Rent Board Postcard Mailing - What Should Berkeley People Do	10/14/2020	1

### **Andrew, Todd**

<b>Mailing Number</b>	<b>Description</b>	<b>Date Mailed</b>	<b>Pieces</b>
1	You have a Choice - A New Voice/Todd Andrew for Berkeley Council D5	10/28/2020	1
1	We need New Leadership/Todd Andrew for Berkeley Council D5	10/29/2020	1

### **Arreguin, Jesse**

<b>Mailing Number</b>	<b>Description</b>	<b>Date Mailed</b>	<b>Pieces</b>
1	Re-elect Mayor Jesse Arreguin Leading Berkeley Forward	10/6/2020	1

### **Bartlett, Benjamen**

<b>Mailing Number</b>	<b>Description</b>	<b>Date Mailed</b>	<b>Pieces</b>
1	Yes on Measure FF - Re-elect Ben 2020	10/2/2020	1
2	Tenant Letter	10/6/2020	2
3	Re-Elect Ben 2020 Danny Glover	10/16/2020	1
4	Right to Housing Slate for Berkeley Rent Board	10/16/2020	1

---

Mass mailings are on file in the Office of the City Clerk, 2180 Milvia Street.

The mass mailings index is a comprehensive listing of these mailings, including date mailed and a brief description of the mailing.



Fair Campaign Practices Commission

Date: January 21, 2021  
To: Fair Campaign Practices Commission  
From: Samuel Harvey, Secretary  
Subject: Analysis of Berkeley Municipal Code section 2.12.335 and its applicability to candidate campaign committees

The Commission has received three complaints during the 2020 election cycle alleging violations of Berkeley Municipal Code (BMC) section 2.12.335 by one or more candidate committees. Some commissioners have expressed concern with the application of section 2.12.335 to candidate committees, noting that the language of the section could be intended to only apply to ballot measure and independent committees. As a result, at its November 19, 2020 meeting, the Commission directed staff to perform additional analysis of section 2.12.335, including review of the section's legislative history and prior Commission actions. As discussed herein, staff's analysis indicates that section 2.12.335 was intended to apply to candidate committees.

Analysis of the language of section 2.12.335

Section 2.12.335 of the Berkeley Election Reform Act ("BERA") (BMC Chapter 2.12) (Attachment 1) requires campaign advertisements to list the name, city of domicile and cumulative contributions for each of the committee's top four contributors over \$250:

- A. Campaign communications supporting or opposing any candidate or measure shall include the name of the committee and the phrase "Major Funding Provided By" immediately followed by the name of the contributor, the city of domicile, and the total cumulative sum of contributions by each of the top four contributors over \$250 to the committee funding the expenditure made within six months of the expenditure. For purposes of this section, the term "contributor" shall include lender, and committees shall aggregate contributions and any loan balances from the same person when determining the total cumulative sum of contributions from a contributor.
- B. The disclosures required by this section shall list contributors in descending order by the cumulative total amount of their contributions and shall be presented in a clear and conspicuous manner to give the reader, observer, or listener adequate notice. For all communications, the complete name of the contributor must be listed. No acronyms may be

January 21, 2021  
Page 2 Re: BERA Section 2.12.335

used. For purposes of this section, “campaign communication” means any of the following items:

1. One thousand or more substantially similar pieces of campaign literature, including but not limited to mailers, flyers, pamphlets, and door hangers
2. Paid advertisements, including but not limited to advertisements in newspapers, magazines, and on the Internet;
3. One thousand or more substantially similar e-mails or pre-recorded telephone calls made within a calendar month.

BERA defines a “contribution” to include loans as well as “a candidate’s own money or property used on behalf of his or her candidacy.” (BMC § 2.12.200.)

Contributions to Berkeley candidate committees are limited to \$250 per person, except where a candidate contributes or loans their own money, in which case the \$250 limit does not apply. (BMC § 2.12.415.) As a result, the only circumstance in which a candidate committee could be required to provide contributor information on an advertisement is where the candidate makes a contribution or loan to their own committee in excess of \$250.<sup>1</sup>

Some commissioners and respondents have asserted that requiring disclosures on advertisements of a candidate’s contribution to their own committee does not serve the same purpose as the disclosure of contributions to ballot measure and independent committees. For example, in the case of a ballot measure or independent committee, section 2.12.335 serves to identify individuals or entities separate from the committee who are providing major funding to the committee, thereby identifying sources of funding and potential influence behind a campaign. In the case of a candidate who contributes to their own campaign, the argument goes, there is no additional information gained by the public in listing the candidate as a major contributor because the public already assumes that the committee is acting at the candidate’s direction and in the candidate’s interests.

On the other hand, it has been asserted that, while disclosure of a candidate’s contribution to their own committee does not provide the public with information about outside people or entities who may influence the candidate, it is important that the public be made aware when a candidate is providing substantial funding to their own campaign. Under this reasoning, section 2.12.335 serves somewhat of a dual purpose, both identifying separate people and entities who are top contributors (in the case of a ballot measure or independent committee), and informing the public about the degree to which a candidate is self-funding (in the case of a candidate committee). Regardless of whether a contribution must be disclosed on campaign communications, all contributions to a committee must be

---

<sup>1</sup> Presumably, if a candidate committee violated BERA by accepting a contribution in excess of \$250 from a person other than the candidate, that contributor’s information would be required on campaign advertisements.

January 21, 2021  
Page 3 Re: BERA Section 2.12.335

reported on the committee's campaign statements filed with the City Clerk and available for public inspection through the City's website.

Legislative History of section 2.12.335

The legislative history indicates an intent to apply section 2.12.335 to candidates who make contributions or loans to their own campaign committees. Section 2.12.335 was presented by the FCPC to the City Council at its April 3, 2012 meeting as part of a package of BERA amendments. (See Attachment 2.) The language of section 2.12.335.A presented to Council read as follows:

Campaign communications supporting or opposing any candidate or measure shall include the phrase "Major Funding Provided By" immediately followed by the name of the contributor, the city of domicile, and the total cumulative sum of contributions by each of the top four contributors over \$250 to the committee funding the expenditure made within six months of the expenditure. Excluded from this disclosure requirement are contributions by a candidate to his or her own committee.

(Attachment 2, p. 9 [p. 3 of attached ordinance], emphasis added.)

In presenting section 2.12.335, the FCPC stated that "[t]he proposed ordinance excludes contributions in any amount from a candidate to his or her own candidate committee. Based on this exclusion and the \$250 cap on candidate contributions, this amendment will not apply to communications funded by candidate committees." (Attachment 2, p. 4.)

At the April 3, 2012 Council meeting, some councilmembers expressed concern about the proposed exclusion of candidate committees from section 2.12.335. (See Attachment 3.) The FCPC subsequently revised the proposed amendments based upon Council comments and returned at the Council's June 26, 2012 meeting with a revised proposal. (See Attachment 4.)

The Commission report for this item summarizes the process as follows:

At the April 3 Council meeting, the City Council considered Section 2.12.335 as part of a package of six proposed BERA amendments. Council ultimately approved five of the amendments, but did not pass Section 2.12.335. Prior to voting on the amendment, Council discussed a number of possible revisions to the amendment. The Commission then held a Special Meeting on May 3 to discuss each of the concerns and suggestions raised at the April 3 Council meeting. After discussion, the Commission passed the following motions by unanimous vote of its membership:

...

e. Motion to accept proposal to remove exception for candidate contributions to their own committees: (M/S/C:.Bedrick/Cummins. Ayes:

January 21, 2021  
Page 4 Re: BERA Section 2.12.335

Bedrick, Cummins, Murray, O'Donnell, Ritchie, Smith, Wollmer; Noes:  
None; Abstain: None; Absent: None.)

(Attachment 4, pp. 1-3.)

The new section 2.12.335.A proposed by the FCPC and subsequently adopted by the Council reads as follows

Campaign communications supporting or opposing any candidate or measure shall include the name of the committee and the phrase "Major Funding Provided By" immediately followed by the name of the contributor, the city of domicile, and the total cumulative sum of contributions by each of the top four contributors over \$250 to the committee funding the expenditure made within six months of the expenditure. For purposes of this section, the term "contributor" shall include lender, and committees shall aggregate contributions and any loan balances from the same person when determining the total cumulative sum of contributions from a contributor.

(Attachment 4, p. 4.)

Based on review of this legislative history, it is clear that the applicability of section 2.12.335 to candidate committees was considered by both the FCPC and the Council when adopting the current language of the provision. The FCPC removed an express exemption for candidate committees from this provision prior to its adoption by Council. The legislative history of this provision therefore clearly indicates that disclosure under section 2.12.335 is triggered when a candidate makes a contribution over \$250 to their own campaign committee.

#### Commission enforcement of section 2.12.335

Staff has identified one prior enforcement matter in which the Commission addressed a violation of section 2.12.335. In 2017, the Commission reached a stipulated agreement with a candidate for failure to include the "Major Funding Provided By" disclaimer on a mailer of which approximately 6,000 copies were sent to Berkeley voters. (See Attachment 5, FCPC Stipulation with Ben Bartlett for Berkeley City Council 2016.)

In that instance, a candidate's mailers failed to disclose a \$10,000 loan from the candidate's spouse. The Commission and respondent reached a settlement for a penalty of \$50. There is potentially some nuance in this prior matter which is not present in the cases currently before the commission. Specifically, it was the candidate's spouse who made the loan which triggered disclosure under section 2.12.335, potentially creating an illegal contribution over \$250 by someone other than the candidate. However, the candidate subsequently provided a signed statement indicating that although the loan check was signed by the candidate's spouse, the amount was loaned from a joint bank account at the candidate's



January 21, 2021  
Page 5 Re: BERA Section 2.12.335

direction. The commission has therefore been willing to enforce section 2.12.335 against a candidate committee based upon a loan from the candidate to their own committee.

Next steps for the Commission

*I. Adopt regulatory clarification*

A number of commissioners have noted confusion by campaign committees and the public about the applicability of section 2.12.335 to candidate committees. The Commission therefore may wish to adopt a regulation clarifying the applicability of section 2.12.335. Staff has provided the following sample regulation language:

**R2.12.335**

**The provisions of BMC section 2.12.335 apply to all campaign committees, including candidate committees that have received contributions or loans over \$250 from the candidate.**

*II. Application of section 2.12.335 to pending enforcement matters*

The Commission currently has three pending enforcement matters affected by section 2.12.335:

1. Rent Stabilization Board candidates Bahman Ahmadi, Dan McDunn, Soulmaz Panahi, Wendy Saenz Hood Neufeld and Pawel Moldenhawer
2. Re-Elect Mayor Jessie Arreguin 2020
3. Rent Stabilization Board candidates Leah Simon-Weisberg, Mari Mendonca, Andy Kelley, Dominique Walker, and Xavier Johnson

The Commission should determine how it wishes to enforce section 2.12.335 in light of the analysis provided in this report. Each of the above enforcement matters will be agendaized for a later meeting. At this time, the Commission should not take specific action on any one enforcement matter, but could use this agenda item as an opportunity to discuss the best approach to enforcing section 2.12.335. This discussion will inform staff's subsequent reports to the Commission for these enforcement matters.

Attachments:

1. BERA section 2.12.335
2. FCPC April 3, 2012 Report to Council: Amendments to Berkeley Election Reform Act

January 21, 2021  
Page 6 Re: BERA Section 2.12.335

3. Excerpt from Berkeley Council Meeting Transcript – April 3, 2012
4. FCPC June 26, 2012 Report to Council: Amendment to Berkeley Election Reform Act, Adding BMC Section 2.12.335
5. FCPC Stipulation: In the Matter of Ben Bartlett for Berkeley City Council 2016

**Berkeley Municipal Code**

**2.12.335 Disclosure on campaign communications of certain contributions and loans.**

A. Campaign communications supporting or opposing any candidate or measure shall include the name of the committee and the phrase “Major Funding Provided By” immediately followed by the name of the contributor, the city of domicile, and the total cumulative sum of contributions by each of the top four contributors over \$250 to the committee funding the expenditure made within six months of the expenditure. For purposes of this section, the term “contributor” shall include lender, and committees shall aggregate contributions and any loan balances from the same person when determining the total cumulative sum of contributions from a contributor.

B. The disclosures required by this section shall list contributors in descending order by the cumulative total amount of their contributions and shall be presented in a clear and conspicuous manner to give the reader, observer, or listener adequate notice. For all communications, the complete name of the contributor must be listed. No acronyms may be used. For purposes of this section, “campaign communication” means any of the following items:

1. One thousand or more substantially similar pieces of campaign literature, including but not limited to mailers, flyers, pamphlets, and door hangers;
2. Paid advertisements, including but not limited to advertisements in newspapers, magazines, and on the Internet;
3. One thousand or more substantially similar e-mails or pre-recorded telephone calls made within a calendar month.

C. For purposes of this section, “campaign communication” does not include: small promotional items such as pens, pencils, clothing, mugs, potholders, or other items on which the statement required by this section cannot be reasonably printed or displayed in an easily legible typeface; posters, yard or street signs, billboards, supergraphic signs, skywriting, and similar items; television, cable, satellite, and radio broadcasts or advertisements; communications paid for by a newspaper, radio station, television station or other recognized news medium; and communications from an organization to its members.

D. When a new contribution changes the list of contributors required to be disclosed on campaign communications under subsection A, campaign communications must be updated on the following schedule:

1. For printed campaign communications under subsection B.1 or subsection B.2, disclosures must be updated within seven calendar days to include current disclosure information every time an order to reproduce the campaign communication is placed, or any time the campaign communication is reprinted;
2. For e-mails or pre-recorded telephone calls under subsection B.3, disclosures must be updated to include current disclosure information within seven calendar days. (Ord. 7253-NS § 1, 2012)



Fair Campaign Practices Commission

ACTION CALENDAR

April 3, 2012

*(Continued from March 20, 2012)*

To: Honorable Mayor and Members of the City Council  
From: Fair Campaign Practices Commission  
Submitted by: Kristy van Herick, Secretary, Fair Campaign Practices Commission  
Subject: Amendments to Berkeley Election Reform Act

RECOMMENDATION

Adopt the first reading of an Ordinance amending the Berkeley Election Reform Act (BERA), Berkeley Municipal Code Chapter 2.12, as follows:

- (1) amend section 2.12.065 to provide for electronic posting of campaign contributions in lieu of newspaper publication;
- (2) add section 2.12.231 to create additional remedies for violations including issuance of monetary penalties;
- (3) add section 2.12.271 to create additional filing requirements for committees making expenditures in support of or opposition to a measure;
- (4) add section 2.12.297 to require additional filing of independent expenditure reports in 40 days preceding election;
- (5) add section 2.12.335 to require disclosure on campaign communications of certain contributions (top four contributors with total contributions over \$250);  
and
- (6) amend section 2.212.485 to create a penalty for late filing of reports required by section 2.12.297.

FISCAL IMPACTS OF RECOMMENDATION

There could be a slight increase in staff time spent by the City Clerk's Office and the Fair Campaign Practices Commission (Commission) Secretary for processing additional filings and educating committees and treasurers of the new requirements, balanced by the potential for collection of penalties payable to the general fund for violations of the BERA. There will also be a cost savings from modifying the newspaper publication requirement by reducing the newspaper advertising cost and City Clerk staff time.

CURRENT SITUATION AND ITS EFFECTS

Enacted in 1974, BERA regulates local campaign activities by, among other things, requiring campaign committees to file specified disclosure statements, limiting candidate contributions to \$250 and prohibiting certain organizations (such as business entities and non-profit corporations) from making candidate contributions.

The voters enacted the BERA with the following stated purposes:

- A. Receipts and expenditures in municipal election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.
- B. The amounts that may be expended in municipal elections should be listed in order that the importance of money in such elections may be reduced.
- C. Adequate enforcement mechanisms should be provided to public officials and private citizens in order that this chapter will be vigorously enforced.” (BMC § 2.12.015)

BERA may be amended to further these purposes through a “double-green light” procedure. First, the Commission must approve any amending ordinance by not less than a two-thirds vote of its membership. Second, following a period of at least thirty days, the City Council must hold a public hearing and also approve the amendment by not less than a two-thirds vote of its membership. (BMC § 2.12.051.A.)

Five of the six proposed amendments were initially presented to City Council on July 12, 2011. At that time, City Council raised some questions and concerns about some of the proposed amendments, and sent the proposed amendments back to the Commission as a whole for further review as follows:

**Action:** *M/S/C (Wengraf/Wozniak) to remand the matter to the Fair Campaign Practices Commission for further review.*

**Vote:** *Ayes – Maio, Capitelli, Wengraf, Wozniak, Bates; Noes – Arreguin, Worthington; Abstain – Moore, Anderson.*

Since last July, the Commission has taken numerous steps to address Council’s questions and concerns. The Commission wrote to all local campaign committees to seek further input, held a September 22, 2011 public workshop, and made multiple revisions to the proposed amendments.

At its January 19, 2012 meeting, the Commission, which currently has six members, approved each of the six proposed amendments by more than a two-thirds vote as follows:

*Move to approve language at Section 1 as stated in staff report (to amend BMC Section 2.12.065): (M/S/C:Smith/Cummins. Cummins, O'Donnell, Ritchie, Smith, and Wollmer; Noes: Bedrick; Abstain: None; Absent: None.)*

*Move to approve language at Section 2 as stated in staff report (to add BMC Section 2.12.231): (M/S/C: O'Donnell/Richie. Bedrick, Cummins, O'Donnell, Ritchie, Smith, and Wollmer; Noes: None; Abstain: None; Absent: None.)*

*Move to approve language at Section 3 as stated in staff report (to add BMC Section 2.12.271):* (M/S/C: O'Donnell/Smith. Bedrick, Cummins, O'Donnell, Ritchie, Smith, and Wollmer; Noes: None; Abstain: None; Absent: None.)

*Move to approve language at Section 4 as stated in staff report (to add BMC Section 2.12.297):* (M/S/C: O'Donnell/Ritchie. Bedrick, Cummins, O'Donnell, Ritchie, Smith, and Wollmer; Noes: None; Abstain: None; Absent: None.)

*Move to approve language at Section 5, as discussed by Commission and amended from language in staff report (to add BMC Section 2.12.335)<sup>1</sup>:* (M/S/C: Bedrick /O'Donnell. Bedrick, Cummins, O'Donnell, Ritchie, Smith, and Wollmer; Noes: None; Abstain: None; Absent: None.)

*Move to approve language at Section 6 as stated in staff report (to amend BMC Section 2.12.485):* (M/S/C: O'Donnell/Cummins. Bedrick, Cummins, O'Donnell, Ritchie, Smith, and Wollmer; Noes: None; Abstain: None; Absent: None.)

The Commission again presents amendments to the City Council for consideration under the “double green light” process. Of the six proposed amendments, all are severable (i.e. Council can approve some and not others), except Section 6. Section 6 creates a penalty for late filing of the campaign statement required under Section 4, so Section 6 is moot if Section 4 is not approved.

### BACKGROUND

Since at least 2009, this Commission has been discussing possible revisions to BERA increasing disclosure and reporting requirements, particularly regarding the funding of independent expenditures and expenditures both for and against ballot measures. Then in early 2010, the Supreme Court decided the case of *Citizens United v. FEC*, expanding corporate campaign spending power by holding that, although “[t]he government can regulate corporate political speech through disclaimer and disclosure requirements,” it is unconstitutional for the government to suppress corporate political speech entirely. (*Citizens United v. FEC* (2010) 130 S.Ct. 876, 886.) In doing so, the Court expanded the ability of corporations to spend money on electioneering communications in federal elections. While not the main focus of the decision, the case nevertheless confirmed that “disclaimer and disclosure” requirement would continue to be a constitutionally valid manner of campaign spending regulation.

Most of the proposed amendments and additions, discussed below, further the purposes of BERA by providing for additional disclosure of campaign fundraising and

---

<sup>1</sup> Before voting, the Commission discussed changing the Section 5 heading to “**Disclosure requirements regarding contributions to ballot measure and independent expenditure committees**”. The Commission suggested that the title be changed unless staff, after further consulting the ordinance, found the title inaccurate or inconsistent with the existing language in BERA. Staff determined that this heading may mislead other types of committees who are not listed in the title but also need to comply with this provision. Staff consulted with the Chair, and has slightly clarified the heading in line with the Commission’s discussions and direction.

expenditures. Additionally, the suggested revisions further the purposes of BERA through improved enforcement mechanisms.

***Independent Expenditures in 40 days preceding election:*** An “independent expenditure” is an expenditure made in connection with a communication expressly advocating for or against a clearly identified candidate or measure which is independent of, and not at the request of or in coordination with, the affected candidate or committee. State law currently requires reporting within 24 hours of independent expenditures of \$1000 or more made during the final 16 days before an election. State law requires the reporting, through a Form 496 filing, to be made by fax, guaranteed overnight delivery, or personal delivery. State law has no provision for notifying the affected candidate or committees of the reporting. BERA currently has no late independent expenditure reporting requirements.

Amendment 2.12.297, if approved, would require reporting of independent expenditures of \$1000 or more within 24 hours to the City Clerk during the expanded period of the last 40 days before an election. The extended period is proposed to take into account increased use of vote by mail ballots. Based on Council feedback and after consultation with the City Clerk’s Office, the current proposal provides that the City Clerk will mail a copy of the late independent expenditure filing to all committees in the affected race. This provision will leave candidate and ballot measure committees better informed of independent expenditures in the 40 days of an election without putting an undue burden on the committee making the independent expenditures. The revised proposed draft allows for BERA to remain consistent with state law as filing methods are modernized by adding a provision for filing electronically as “authorized by law”. The proposed amendment to Section 2.12.485 adds the late independent expenditure filing to the list of filings resulting in state law established \$10 per day penalty for filing a report after the filing deadline.

***Disclosures of major donors on campaign communications:*** Currently, BERA has no requirements for information to be listed on campaign materials, except for mass mailings funded by independent expenditure. Amendment 2.12.335, if approved, will require campaign communications to include information about the top four donors to the committee funding the communication, but only for donations in excess of \$250. The proposed ordinance excludes contributions in any amount from a candidate to his or her own candidate committee. Based on this exclusion and the \$250 cap on candidate contributions, this amendment will not apply to communications funded by candidate committees.

The Commission made a number of changes to this proposed amendment based on Council’s feedback. First, the Commission limited the contribution disclosure to the top four contributions over \$250 (rather than disclosure of all contributions of \$2500 or more), placing reasonable limits on the space taken up by the disclosure on written communications. Second, the Commission further limited what is considered a campaign communication, excluding lawn signs, television and radio advertisements.

Third, the Commission replaced specific requirements regarding type, font size, and contrast with a more flexible “clear and conspicuous” standard. Fourth, the Commission provided for a reasonable period to update the disclosure on communications if the list of major donors changes.

**Quarterly filings for committees supporting or opposing measures, including referendum petitions:** During a recent referendum petition circulation, there was some ambiguity as to whether a referendum petition process constitutes a measure such that expenditures for or against the petition process constitute campaign spending triggering campaign statement filing requirements. City staff obtained an opinion letter from the state Fair Political Practices Commission confirming that state law recognizes a measure as existing when a referendum petition begins to circulate, and the Commission then voted to adopt the state’s interpretation. An inconsistency in disclosure requirements was discovered, however, in that a ballot measure committee spending on a referendum petition process must file quarterly, but a general purpose committee spending money to oppose the same petition process only files semi-annually. The addition of Section 2.12.271 would address this inconsistency, providing that all committees actively making expenditures on a measure must file quarterly for a set period.

**Amending newspaper publication requirement:** Currently, the BERA requires that the City publish in one or more newspapers during the week prior to each election, a list, by contributor name and contribution amount, of all contributions of \$50 or more. Prior to 2010, the contributor list was published in the Berkeley Daily Planet. This is no longer an option as the Planet is now solely available electronically. Berkeley Voice and the The Daily Cal are the only two cost-effective options for reaching Berkeley residents. However, both of these newspapers have limited distribution. There is also significant staff time spent putting together the publication in a manner appropriate for newspaper publication.

While local print media has become less available, voters are getting more information through online sources. The Commission’s proposed amendment provides for electronic posting of the contributor lists on the City’s website. The list would also be posted in print form in other public locations (such as public libraries and senior centers), and City staff would also publish a print media advertisement notifying the public where they can find the contributor list. If approved, this revision would reduce the cost of the print advertisement, and significantly reduce the staff time spent preparing the newspaper publication during the busy final weeks before elections. This proposed revision was not presented to Council last July as it was still under review by the Commission at that time.

**Administrative penalties:** On multiple occasions over the last five years, the Commission has considered the idea of creating a penalty system for campaign violations. Currently, a committee can only be fined through an administrative process if a campaign report is late, or if the committee accepts a contribution in excess of



allowable sums. However, there is no general administrative penalty provision for most violations of the BERA, such as failure to file a campaign report, nondisclosure of multiple contributors, or ignoring mass mailing disclosure requirements. The BERA has a misdemeanor provision, requiring reliance on the District Attorney's Office for prosecution. The Commission has made a prior referral to the Alameda County District Attorney's Office for willful violation of filing requirements, but they did not pursue the matter.

Under the proposed amendment, a penalty can only be imposed after a good cause determination and formal hearing, or through a negotiated stipulated settlement. Section 2.12.231 caps the penalty at \$1000 per violation, but allows for a penalty of a lower amount or other resolutions such as an order to "cease and desist" or to file reports or other documentation. Should Council adopt the penalty provision, the Commission plans to create clear and consistent guidelines for determining whether to impose a penalty and the penalty amount.

RATIONALE FOR RECOMMENDATION

See report.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

CONTACT PERSON

Steve Wollmer, Chair, Fair Campaign Practices Commission	510 843-2053
Kristy van Herick, Secretary, Fair Campaign Practices Commission	510-981-6998

Attachments:

1: Ordinance

ORDINANCE NO. -N.S.

AMENDING THE BERKELEY ELECTION REFORM ACT, BERKELEY MUNICIPAL CODE CHAPTER 2.12, TO POST CONTRIBUTIONS ELECTRONICALLY IN LIEU OF NEWSPAPER PUBLICATION, CREATE ADDITIONAL REMEDIES, ADD FILING REQUIREMENT FOR COMMITTEES MAKING EXPENDITURES ON A BALLOT MEASURE, REQUIRE LATE INDEPENDENT EXPENDITURE REPORTS 40 DAYS PRECEDING ELECTION, AND REQUIRE MAJOR CONTRIBUTORS TO BE LISTED ON CAMPAIGN COMMUNICATIONS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code 2.12.065 is amended to read as follows:

**2.12.065. Electronic posting ~~Publication~~ of contributions prior to elections.**

The City shall ~~publish~~ post in at least two public locations and electronically on the City website in one or more newspapers at least once in during the seven days before each municipal election a list of all persons contributing fifty dollars or more to any candidate or committee in that election and the amounts of the contributions reported through the filing deadline for the second pre-election statements. The City shall additionally publish in one or more newspapers at least once in the seven days before each municipal election a notice listing the locations of the posted information. The City shall direct publication of the notice in such newspaper or newspapers as are best suited to reach the largest number of Berkeley residents in a cost-effective manner.

Section 2. That Berkeley Municipal Code 2.12.231 is added to read as follows:

**2.12.231. Violation--Penalties.**

When determining an appropriate remedy for a violation of this Chapter as specified in Section 2.12.230, the Commission may order any of the following:

- A. Cease and desist violation of this Chapter.
- B. File any reports, statements, or other documents or information required by this Chapter.
- C. Pay a monetary penalty of up to \$1,000.00 per violation, or up to the amount or value of the unlawful or undisclosed contribution or expenditure, whichever is greater, to the General Fund of the City.

Section 3. That Berkeley Municipal Code 2.12.271 is added to read as follows:

**Section 2.12.271. Campaign statements--Additional filing requirements.**

- A. Each committee that makes expenditures in excess of \$250 in support of or in opposition to a measure must, in addition to campaign statements required by Section 2.12.270 of this Chapter, file campaign statements on the following dates: (1) no later than April 30 for the period January 1 through March 31; and

(2) no later than October 31 for the period July 1 through September 30. If the committee has earlier pre-election statement filing deadlines, the earlier deadlines apply.

- B. Any additional filing requirement under this section shall cease upon the occurrence of any of the following dates, whichever occurs first: (1) the election day on which the measure is voted upon, (2) six months after the measure fails to qualify for the ballot, (3) six months after an ordinance subject to referendum is repealed by the City Council, or (4) six months after an elected official subject to recall resigns or otherwise leaves office.

Section 4. That Berkeley Municipal Code 2.12.297 is added to read as follows:

**Section 2.12.297. Independent Expenditures in 40 days preceding election.**

- A. Disclosure of Expenditures. Any person that makes an independent expenditure of \$1,000 or more in support of or in opposition to any measure or candidate, or group of measures or candidates, in the 40 days before an election in which the measure or candidate, or group of measures or candidates, appears on the ballot, shall notify the City Clerk within 24 hours by personal delivery, fax, overnight mail, or other electronic means as authorized by law each time an expenditure which meets this threshold is made. The City Clerk shall post a copy of the notice to the City's website within two business days after receiving the notice. Late independent expenditures shall be reported on subsequent campaign statements in addition to the reports filed pursuant to this section. The person shall also provide to the City Clerk three copies of the communication funded by the expenditure.
- B. Contents of Notice. The notice shall specify:
- a. Each candidate or measure supported or opposed by the expenditure;
  - b. The amount spent to support or oppose each candidate or measure;
  - c. Whether the candidate or measure was supported or opposed;
  - d. The date and amount of each expenditure;
  - e. A description of the type of communication for which the expenditure was made;
  - f. The name and address of the person making the expenditure; and
  - g. The name and address of the payee.
- C. Notification to Candidates of Expenditures. The City Clerk shall notify all candidates and committees in each affected race by first class mail within two business days of receiving notice of the independent expenditures of \$1,000 or more.
- D. Exemption for Regularly Published Newsletters. For purposes of the notification required by subsection (A) of this section, payments by an organization for its regularly published newsletter or periodical, if the circulation is limited to the organization's members, employees, shareholders, other affiliated individuals

and those who request or purchase the publication, shall not be required to be reported.

Section 5. That Berkeley Municipal Code 2.12.335 is added to read as follows:

**Section 2.12.335. Disclosure on campaign communications of certain contributions.**

- A. Campaign communications supporting or opposing any candidate or measure shall include the phrase “Major Funding Provided By” immediately followed by the name of the contributor, the city of domicile, and the total cumulative sum of contributions by each of the top four contributors over \$250 to the committee funding the expenditure made within six months of the expenditure. Excluded from this disclosure requirement are contributions by a candidate to his or her own committee.
- B. The disclosures required by this section shall list contributors in descending order by the amount of their contributions and shall be presented in a clear and conspicuous manner to give the reader, observer, or listener adequate notice. For all communications, the complete name of the contributor must be listed. No acronyms or abbreviations may be used. For purposes of this section, “campaign communication” means any of the following items:
  - 1. More than 200 substantially similar pieces of campaign literature, including but not limited to mailers, flyers, pamphlets, and door hangers;
  - 2. Paid advertisements, including but not limited to advertisements in newspapers, magazines, and on the Internet;
  - 3. Two hundred or more substantially similar pre-recorded telephone calls or e-mails made within a calendar month.
- C. For purposes of this section, “campaign communication” does not include: small promotional items such as pens, pencils, clothing, mugs, potholders, or other items on which the statement required by this section cannot be reasonably printed or displayed in an easily legible typeface; posters, yard or street signs, billboards, supergraphic signs, skywriting, and similar items; television, cable, satellite, and radio broadcasts or advertisements; communications paid for by a newspaper, radio station, television station or other recognized news medium; and communications from an organization to its members.
- D. When a new contribution changes the list of contributors required to be disclosed on campaign communications under subsection A, campaign communications must be updated on the following schedule:
  - 1. For printed campaign communications under subsection B.1 or subsection B.2, disclosures must be updated within seven calendar days to include current disclosure information every time an order to reproduce the

campaign communication is placed, or any time the campaign communication is reprinted;

2. For pre-recorded telephone calls or e-mails under subsection B.3, disclosures must be updated to include current disclosure information within seven calendar days.

Section 6. That Berkeley Municipal Code 2.12.485 is amended to read as follows:

**2.12.485. Late filing penalties.**

Any candidate or committee whose only requirement to file a campaign statement or report is pursuant to Sections 2.12.270, ~~or 2.12.295,~~ or 2.12.297 of this chapter and who files such report or reports after the deadlines imposed in these sections, shall, in addition to any other penalties or remedies established by this chapter, be liable for the penalties enumerated in California Government Code Section 91013, which is incorporated herein.

Section 7. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

>> And we felt it was better policy, public policy, that all committees that receive contributions greater than \$250 disclose those contributions rather than have a threshold of \$2500 which could easily be gamed.

What we want to know is who are the main contributors to your campaign at this point in time because, again, it does change as the campaign goes on.

>> K. Worthington: So I move the commission recommendation.

>> Second.

>> Mayor Bates: Does anyone want to second it?

>> J. Arreguin: I seconded it.

>> Mayor Bates: Seconded by Arreguin.

So Councilmember Capitelli.

>> L. Capitelli: Yeah.

Steve, I think the last time we got together on this I asked you -- I have got several issues with this section.

Why are we excluding contributions by a candidate to his or her own committee?

>> Two reasons.

One is many of the contributions from a candidate are in the form of a loan.

At what point do we disclose that loan?

Is it a loan or is it -- it becomes a contribution if you don't pay the loan back, but do you disclose the loan?

Many people try to jump start their campaigns with a loan and hope that they get paid back.

And the second reason was that we already know who is speaking to us.

>> L. Capitelli: Well, I guess -- and I brought this up --

>> And again, if the council chooses to have those be disclosed, then every candidate who contributed more than 250 would put that on -- the amount of their contributions on their communications and all we need to know is how do you want us to handle loans.

Outstanding loans are considered contributions.

Right now they are considered contributions.

>> L. Capitelli: That's really my concern, which is a well-healed candidate can loan their independent committee \$20,000, and then the day after the election, they forgive the loan, and the intention all along was that it was a contribution.

Or ABC bad corporation president loans the committee \$10,000.

That doesn't get reported; right?

You could fund a pretty good campaign.

>> L. Maio: Let's hear if it gets reported.

>> Although technically, they would not be able to loan that money to a candidate.

>> L. Capitelli: No, no. To a committee.

And that would not be public information.

The way I understand --

>> Mayor Bates: Let her answer that.

>> It's public in that it's right there on the campaign filings.

You have to list all your loans.

It's just not on the mailer.

>> L. Capitelli: And realistically, how many people go to the campaign filings?

The idea here is to put the information out in front of the public.

I would really challenge you, you haven't convinced me we should be excluding loans; okay?

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

My second problem goes back to these e-mails of 200, and I kind of feel like I might get picked to death by the rooster or the hen.

I send a lot of e-mails out now through my office, it's a newsletter, but a lot of them go viral.

If I send it to someone in a neighborhood group, invariably they say, "Here is so-and-so's communication," and then a third party gets it. And they don't look to see it's coming from some Yahoo! group.

They just see Capitelli's newsletter.

So I could easily send out 50 or 60 newsletters and it could wind up going to 500 people.

>> And you could easily demonstrate that to us by --

>> How?

>> How.

You can show details when you -- You know, your e-mail program will allow you to disclose who it went to.

But let's --

>> L. Capitelli: It's a problem.

>> Let's get back to the point of what do we do with loans and what do we do for candidate contributions.

>> Mayor Bates: Excuse me a minute.

We have to extend to -- we have how many more items?

>> L. Maio: 11:30.

>> Clerk: We have five more items after this.

>> We'll be glad to take --

>> Mayor Bates: Shall we extend to 11:30?

Do we have a motion?

>> L. Maio: I'll move it.

>> Second.

>> Mayor Bates: We will all be voted aye.

You still have the floor.

>> We will be glad to take any suggestions that you have.

>> Roll call.

>> Did we vote?

>> Mayor Bates: We did it unanimously.

Did anybody object?

>> If you want candidate loans to be disclosed under this, we will be glad to come up with language.

We are going to have a special meeting in April anyway and we will come up with language to do it that way.

>> L. Capitelli: I would like -- has there been a motion yet on this one?

>> Yes, there has.

>> Mayor Bates: Okay.

Well, I don't want to -- I'm not quite -- I don't quite have my head around it now to make a motion but I would like to see loans treated as contributions, and I don't quite know how to address this 200 e-mails.

Let me think about that for a minute and let somebody else --

>> That's already the requirement under mass mailings, is when you do -- I know, it's for hard copy.

That's why we brought it forward into the electronic age, which you keep on telling us you want us to do.

>> L. Capitelli: I understand that logic.

I just think the idea of it -- in other words, nobody is going to take my hard copy flier and make 300 copies of it and send it, you know, to people.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

On the other hand, somebody might take my campaign e-mail and send it to a whole bunch of people.

>> That's not your liability.

>> L. Capitelli: Pardon?

>> That's not your liability.

>> L. Capitelli: I know that but I don't want be to be sitting in front of your committee saying here are the cc's I sent it to.

>> You would demonstrate it to Christy.

>> Mayor Bates: Wait a minute.

I thought I understood you to say -- and I think I agree with this, if you are identified as the candidate touting your own position or you are identified as a person, you people know who it came from; right?

>> Absolutely.

>> Mayor Bates: So it's not a big problem if it goes larger than 200 as an example; right?

It's not a problem.

Because you are trying to safeguard people doing some various things by forming a committee that nobody knows about, and then they get....

Same thing with the loans.

Let's go back to the loans for a second.

If a candidate loans the campaign money, I can see the logic of saying it doesn't -- you know, it's an important bit of information, but it's disclosed during the filing periods, and especially if you made a large one, it would go right to the top.

So I don't think it's a problem.

But -- In that regard.

But if you loan money to a committee that's an independent committee or a general committee, I think you have to disclose that, because that is different.

That's like cash that they can use.

>> It could be spent.

That's for sure.

>> Mayor Bates: Pardon?

>> It can be spent like cash.

>> Mayor Bates: It is cash.

So I think that kind of a loan should be disclosed.

>> Okay.

It sounds like a reasonable thing.

>> Mayor Bates: Okay.

So --

>> Any discussion on the 200?

>> Mayor Bates: Wait.

We have a motion, and I think Capitelli wants to make a referral to, I think, -- and I am interested in the loan provision that's made to an independent committee or to a general committee be disclosed.

>> L. Capitelli: Could I ask, what about candidates making a large loan to his own committee?

>> Mayor Bates: That's what I said I wasn't as concerned about that.

>> L. Capitelli: You are not concerned about that.

>> D. Moore: I think it should be disclosed, too.

>> L. Capitelli: My concern is that a candidate could conceivably -- I'm not going to say buy an election, but it certainly gives an advantage or leads the perception that somebody who has a lot of money -- What's your objection?



*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

>> There is no objection.  
The point is once that person makes a contribution, a large contribution, pick it up in the filings.  
You say what's going on.  
So then you campaign --  
>> L. Capitelli: But that happens after the election.  
I forgive the loan after the election.  
>> Mayor Bates: It has to be disclosed right away, Laurie; right?  
>> Still disclosed as a loan.  
>> Mayor Bates: But we're not kidding ourselves.  
I want my own campaign, my life Loni runs campaign.  
It's cash money that they can use in the campaign, and they hope to get paid back.  
They may or may not get paid back, so it gets disclosed because when you file it says suddenly Hancock put \$100,000 into her account and you can say she is buying the election.  
You can pick it up.  
What's really egregious is when you lend the money to an issue, an independent committee and it doesn't get picked up, because you if he ever know that.  
>> We'll be glad to consider that either as --  
>> Mayor Bates: You can refer both of them, Laurie.  
Why don't you refer both?  
It's okay.  
We're going to have a regular motion -- is everybody okay with the regular motion?  
>> No.  
>> G. Wozniak: No.  
I want to speak against the motion on three points; okay.  
One, 200 -- I mean, having it on major pieces of campaign literature, fine, but I think there are better ways to list the four largest contributors.  
You should require everybody to list the link to the campaign disclosure document so you can see all of them. That's much less information. You just have to put the URL.  
The second is on item number 1, door hangers are relatively small. Requiring you to put the names of four contributors on a door hanger isn't practical.  
I would suggest striking that.  
Paid advertisements, maybe, okay.  
But the last three is I think one should not combine prerecorded telephone calls with e-mails.  
It says if you send out more than 200 e-mails a month, that's like --  
>> Substantially similar.  
>> G. Wozniak: Well, 200 a month is how many a day; okay?  
That's like 15 a day.  
So you can get -- that means you send out 15 e-mails, someone can start saying, well, last month this committee -- gotcha.  
200 is way too low.  
And on an e-mail electronic document rather than having them list them, you should put the URL and say combine the information on all the contributors and you click on this and the information is available on the City Web site.  
200 is way too low.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

And it should be per instance.

It should be something like maybe a thousand.

Any -- Take for example the marijuana initiative last time.

Whenever they sent out an e-mail citywide I bet they sent out multiple thousands.

And each one of those you are going to have to put all the contributors, or the top four contributors.

That I think is a burden.

He is it's different from disclosure.

You are asking to put out the names of all the contributors.

>> The four.

Top four.

>> G. Wozniak: I understand.

And there's a reason why you want to do that and I think you can disclose the information without actually putting that explicitly in the document. Particularly electronically.

It's a click.

It's a click.

It's a click.

>> No.

>> G. Wozniak: It is.

It's a click.

>> It makes more sense -- if you are talking about somebody receiving this piece of literature asking them to go to their computer and look at a URL, no.

If --

>> G. Wozniak: They are already on the computer in electronic e-mail. Come on.

They are already on.

It's much faster to do it there.

Psych all of the contribution.

>> Okay.

Tell us what you want us to do.

>> G. Wozniak: I want you to make it easy to see all of them.

>> No, as a group tell us what you want us to do.

>> Mayor Bates: I don't think we know.

We are getting punchy.

>> G. Wozniak: And it should be per day, not per month.

>> Tell us what you want to do.

Make a motion, tell us what and we will bring it back next month.

>> G. Wozniak: My motion would be to raise the limit to a thousand, and one, and on three, we add a fourth, we strike the e-mail, 200 for similar and prerecorded telephone calls but there should be a four and it should be a thousand e-mails per day with a link for -- you know, requiring there be a sentence saying all the information on contributors is available at this link.

>> S. Wengraf: I'll second that motion.

>> His motion or his?

[ Laughter ]

>> Mayor Bates: Okay.

So I think he's right.

So what do you have for a motion?

Where are we?

We're lost, we're lost.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

>> D. Moore: Two motions and one substitute.  
>> Clerk: Were you substitute to the main motion?  
>> G. Wozniak: I don't know.  
Is there another motion?  
>> Clerk: The main motion was to adopt the item with -- to add loans.  
That was the main motion.  
>> G. Wozniak: Mine is a substitute.  
>> To refer.  
>> Clerk: To refer.  
>> Mayor Bates: Refer the loans.  
>> J. Arreguin: For candidate and noncandidate contributions.  
>> Mayor Bates: Gordon, what do you want?  
>> That wasn't part of his motion.  
>> My motion.  
>> G. Wozniak: The substitute is on B1, to raise it to a thousand pieces  
of literature, excluding door hangers.  
For 3, leave it at 200 for prerecorded telephone calls and add a 4, raise  
it to a thousand e-mails per day, and that there should be a sentence at  
the bottom of the e-mail with a link to all the contributors to that cause  
-- you know, that are supporting that whatever, for or against.  
That they have to link to the city's Web site that has that disclosure.  
>> Mayor Bates: That's a referral back to the committee.  
>> G. Wozniak: Yes, that's a referral.  
But I think 200 per month on e-mails is not workable.  
>> Mayor Bates: I agree.  
>>Audience: You already said that.  
>> Mayor Bates: Please.  
You're not helping, sir.  
You're not helping.  
>>Audience: Please.  
>> Mayor Bates: Then leave.  
>>Audience: Why don't you -- (shouting off microphone from the audience).  
You call this government?  
>> Mayor Bates: Yeah, it is government.  
>>Audience: This is sorry.  
This is a really sorry thing and it's a really sorry thing that you put --  
>> Mayor Bates: Sir, please.  
>> Audience: (Off microphone) At end of the agenda and you ask us all to  
sit around while you guys do nothing! Do nothing!  
>> Mayor Bates: Really?  
I thought we were doing campaign reform stuff but I guess he doesn't  
agree.  
>> Clerk: Councilmember Wozniak your substitute motion does not include  
the referral about adding loans to this?  
>> G. Wozniak: I'm happy --  
>> Mayor Bates: We have a lot of people who want to speak.  
Jesse, you want to speak?  
>> J. Arreguin: Just about the first part of Councilmember Wozniak's  
substitute, I believe it's city law that says that 200 or more pieces of  
campaign literature have to be filed.  
So this is very similar to existing city law so I don't want to change  
that.  
I think that would be a bad idea for us to change that.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

You do have a valid point, Councilmember Wozniak, with regard to the 200 or more e-mails.

My concern is as somebody who has run campaigns before, if I send 200 e-mails in a month to volunteers or to campaign staff, that may be subject - - I believe the way this is written -- to disclosure.

>> This is not written to include candidate campaigns.

>> J. Arreguin: But initiative campaigns would be subject; right?

>> Yes.

>> J. Arreguin: And I have run initiative campaigns.

So my understanding about -- getting to the point that Councilmember Capitelli made earlier, first of all, e-mails that I send to my office e-mail list, the newsletter, that is not subject to this.

That's separate.

And additionally, e-mails I send as a candidate committee to voters would not be subject to this.

So we're just talking about committees supporting or opposing candidates that are not controlled committees or independent expenditure committees.

>> Or if you add the --

>> J. Arreguin: Or ballot measure committees.

>> Yes, yes.

>> G. Wozniak: Which are citywide.

>> Mayor Bates: Okay.

Councilmember Wengraf.

>> S. Wengraf: Yeah, Gordon, you said that it should link to the contributions?

I just want some clarity on where is that -- where does that link live?

>> G. Wozniak: The information has to be filed with the city clerk, so that's on the Web site.

Just like you go to --

>> Clerk: I think he is saying linking to where the campaign filings are on the City's Web site.

>> Have you ever tried to....

>> S. Wengraf: So you could game it a little bit by timing it in certain ways, but....

>> G. Wozniak: You have got to file now 40 days ahead.

>> S. Wengraf: I agree with you about the 200.

I think it's an archaic number.

>> Mayor Bates: It's a referral back.

>> L. Maio: But they are actually asking for guidance.

>> Please, give us guidance.

We don't want to do this over and over again.

>> Mayor Bates: Councilmember Worthington.

>> K. Worthington: Well, unfortunately the substitute motion is just increasing secrecy the commission recommendation is very simple and straightforward.

Listing your top four contributors over \$250 is not an excessive requirement.

Saying people who give \$999 don't have to be reported makes -- there's no reason to limit it to only a thousand dollars.

I think if one of the top four is over 250, then that's a significant amount of money that people deserve to know.

In terms of the 200 e-mails.

It's not a burden when sending an e-mail, you just have a little snippet and you cut and paste it when you are sending hundreds of e-mails.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

It's not an awful lot of work.

You just put the list in the e-mail.

What's so complicated?

I think we sudden err on the side of giving the public as much information as possible and to keep the increased secrecy of the substitute motion by limiting how many contributors get reported and by taking away the -- putting this little tiny thing onto your e-mails when we send this out, why would we want to keep this information secret?

The public deserves to know this information.

The public won't get this information, and --

>> (Off mic).

>> S. Wengraf: It will, because it --

>> Mayor Bates: Have a little order.

>> K. Worthington: If you want to add a link to all the contributors, I'm sure the commission would be happy to do that, in addition to, not instead of reporting the top contributors.

I think it says something meaningful to the public, if they -- if they just see a link and they are not going to bother.

If they see your top four contributors and there's a link, you know, it might give them more of an incentive to go to the link and, like, oh, my, these are it and I want to see the rest.

But to say we're not going to give them the top four unless they get even more money is just keeping information away from the public that should be out there on campaign literature.

>> Mayor Bates: Okay.

Councilmember Maio and then we will go to a vote.

>> L. Maio: "A" is candidate or measure over 250, and "B" is how they should be listed.

Is that right?

>> Yes.

>> L. Maio: So having them listed in descending order seems fine to me.

So can we just pass A and B without going to 1, 2 and 3 and then we can decide what we want it to be applicable to and how many?

So if we say those two things, we could settle those A and B without going to 1, two, and three,.

>> Z. Cowan: B doesn't mean much without something after the colon.

>> L. Maio: It says it should be in descending order by amount of their contributions, and clear.

>> L. Capitelli: Are we saying contributions or loans?

>> L. Maio: Okay.

I haven't gotten to loans yet.

I am just trying to get this language so that we could then focus on one, which basically seems to me to be -- I don't want -- see, I think we can keep going around there because there's so much to grab on to so if we could just pass "A."

>> Mayor Bates: I think we could pass "A," too.

>> L. Maio: Do we have the ability to pass "A" with the measures that are on the floor?

>> Z. Cowan: You can't pass "A" because it refers to what is defined on campaign literature and that is defined in "B."

>> G. Wozniak: You can pass "C."

>> Z. Cowan: That only says what it doesn't --

>> L. Maio: Here we go again.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

So I am going to go back to "A" and we're really only talking about the top four in A and B; correct?

>> Mayor Bates: Yep.

>> L. Maio: And now in one, it depends on how many we want this to apply to.

And it seems to me that 200 is totally insignificant.

It's like it's a small number of people.

I mean, having a reasonable number where you are sending out a major number of pieces, 200 seems very small to me.

And I don't know if anybody is going to actually run off 200 of anything. It doesn't seem realistic.

>> At Kinko's, you might.

>> L. Maio: Is there a motion on the floor?

>> Mayor Bates: There's two.

>> L. Maio: Then I can't say anything about a motion.

>> Mayor Bates: Yes, you can.

>> L. Maio: So I think a thousand is reasonable, too, because you're not really going to run off 200.

You could -- You have a district of, you know, 7,000 -- yeah.

You just -- 200 is -- I could see really putting it out for a large number that you would want to list that, but these are generally small little things that you might do for people who are coming to your house to work on your campaign or something.

>> Mayor Bates: We've got it.

Okay.

>> L. Maio: But I can't make a motion but I would --

>> Mayor Bates: Gordon already has a thousand.

He already has that.

>> L. Maio: But you did say not door hangers.

>> J. Arreguin: You should take out mailers, then.

>> L. Maio: I think mailers are postcards.

>> J. Arreguin: They are subject to a separate section of BMC --

>> Mayor Bates: Linda has the floor.

We are getting a little out of control here.

>> L. Maio: Well, it's late.

>> Mayor Bates: I know it's late but there's no reason we have to do it. Gordon has --

>> L. Maio: I am happy to support that and I think we should deal with loans separately because it's too complicated and it's too much for tonight anyway, I just think.

We're over because we have every one of these things is going to take a lot of discussion, and we have people in the audience who have been waiting for a long time as we heard.

>> Mayor Bates: Yeah.

We are not trying to do it on purpose.

>> L. Maio: I know we're not.

We're really trying to do the best we can with a big agenda tonight.

>> Mayor Bates: We have a choice which is we can just stop right here.

>> G. Wozniak: What about section 6?

Is it controversial?

>> It just enforces this one.

>> Clerk: No.

It enforces --

>> Item 4.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

And you already passed 4 so it is creating a penalty for the independent expenditure filing if it isn't filed in time.

>> I move.

>> Second.

>> K. Worthington: You can't have three motions --

>> Mayor Bates: Wait a minute.

We have two motions on the floor but I am going to rule that --

>> We have four motions --

>> G. Wozniak: I will withdraw mine if we are going to hold this over.

>> Mayor Bates: I would ask who made the first motion to withdraw too, please.

>> Clerk: That was Kriss.

>> Mayor Bates: We'll be back.

>> K. Worthington: I want to see how many votes we get for doing the right thing and getting the public information.

>> L. Maio: Let's vote on his motion.

>> Mayor Bates: You are not withdrawing?

>> K. Worthington: I think -- This was delayed --

>> Mayor Bates: I am just asking yes or no.

>> K. Worthington: This has been repeatedly delayed.

It's a very simple requirement.

It gives the public more information.

I think we should move forward.

>> Mayor Bates: Okay.

We're going to vote, then.

So call the roll on the motion, then.

>> What is the motion?

>> Main motion.

>> Mayor Bates: Main motion as printed without the 1,000 and other changes.

I am recommending we vote know and we will have it back.

>> Clerk: It was to refer it back to include loans.

>> K. Worthington: No.

It was to adopt what the commission recommended at -- four contributors over 250 and to refer the new issues brought up tonight to the commission to consider.

>> Mayor Bates: The loan issues.

(Multiple people talking at once.)

>> L. Maio: I am not going to vote for it.

>> Mayor Bates: Call the roll, please.

>> Clerk: Councilmember Maio.

>> Abstain.

>> Moore.

>> Abstain.

>> Anderson.

>> Yes.

>> Arreguin.

>> Yes.

>> Capitelli.

>> Abstain.

>> Wengraf.

>> Abstain.

>> Worthington.

>> Yes.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

>> Wozniak.  
>> Abstain.  
>> Mayor Bates.  
>> Mayor Bates: Abstain.  
So that doesn't pass.  
So we're on item number 6.  
>> K. Worthington: So moved.  
>> L. Maio: Second.  
>> Second.  
>> Clerk: I already have a motion and seconder.  
>> L. Maio: So then we should vote now?  
>> Clerk: Yes.  
>> K. Worthington: That motion was not able to be made at that time.  
>> Mayor Bates: It wasn't legal so we will now accept the same mover and end seconder as was previously made.  
Okay.  
So is there objection to us all being voted aye on the last section?  
Seeing none, okay.  
That passes.  
So we have five out of six, something like that.  
Not too bad.  
So we'll continue.  
What I suggest, Steve, is you take these comments back to the commission and then see if you can massage it.  
Listen to the tape and come back.  
Okay.  
So now we don't have much time and we are all getting cranky so let me go to item number 37, which is the next item, which is referring ballot language to the city manager.  
There's been a suggestion, Jesse, on the -- on number 37 that a supermajority being required in order to pass the new district boundaries.  
>> L. Maio: Going to take comment?  
>> Mayor Bates: So you want to move that; right?  
>> Public comment?  
>> Mayor Bates: We are going to hear from them but I want a motion on the floor.  
>> J. Arreguin: I will put a motion on the floor to adopt item 37, adding -- well, first amending at the suggestion of Councilmember Capitelli number 4 to say that no two incumbents should be drawn in the same district and adding a fifth asking staff to explore approval of a redistricting plan by a supermajority vote and then asking staff to look at ways to address the issue of impasse if a supermajority is not reached.  
>> Supermajority is?  
>> Mayor Bates: Six.  
I have been resisting that but we just had a supermajority on the last item.  
Anybody who wishes to speak on this item, now is the time.  
>> Good evening, Mayor Bates and councilmembers.  
My name is Sidney fang, I am a current ASUC Senator and I am here because I am happy to see that the charter is being reformed to follow -- reformed to allow more flexible and equitable redistricting and eliminating the 1986 boundaries will go a long way towards creating districts that better represent Berkeley's diverse communities of interest.





Fair Campaign Practices Commission

ACTION CALENDAR  
June 26, 2012

To: Honorable Mayor and Members of the City Council  
From: Fair Campaign Practices Commission  
Submitted by: Steve Wollmer, Chair, Fair Campaign Practices Commission  
Subject: Amendment to Berkeley Election Reform Act, Adding BMC Section 2.12.335

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt the first reading of an Ordinance amending the Berkeley Election Reform Act (BERA) to add Berkeley Municipal Code section 2.12.335, requiring disclosure on campaign communications of the committee's name and certain contributions and loans received by the committee.

FISCAL IMPACTS OF RECOMMENDATION

There could be a slight increase in staff time spent by the City Clerk's Office and the Commission Secretary educating committees and treasurers of the new requirement, balanced by the potential for collection of penalties payable to the general fund for violations of the BERA.

CURRENT SITUATION AND ITS EFFECTS

Currently, BERA has no requirement that campaign committees include identifying information on campaign materials, except for certain mass mailings. Section 2.12.335, if approved, will require committees to list on campaign communications both the name of the committee and information about the top four donors (both contributors and lenders) to the committee in excess of \$250. Campaign communications subject to the disclosure requirement include campaign literature (mailers, flyers, pamphlets and doorhangers), advertisements (newspapers, magazines and the Internet), emails and pre-recorded calls.

At the April 3 Council meeting, the City Council considered Section 2.12.335 as part of a package of six proposed BERA amendments. Council ultimately approved five of the amendments, but did not pass Section 2.12.335. Prior to voting on the amendment, Council discussed a number of possible revisions to the amendment. The Commission then held a Special Meeting on May 3 to discuss each of the concerns and suggestions raised at the April 3 Council meeting. After discussion, the Commission passed the following motions by unanimous vote of its membership:

- a. *Motion to accept proposed revision to add loans and name of committee to information subject to disclosure on campaign communications:*  
(M/S/C:Ritchie/Smith. Ayes: Bedrick, Cummins, Murray, O'Donnell, Ritchie, Smith, Wollmer; Noes: None; Abstain: None; Absent: None.)

- b. *Motion to accept proposal to increase number of substantially similar printed campaign materials considered campaign communications subject to disclosure requirements from 200 to 1000: (M/S/C:.Smith/Cummins. Ayes: Bedrick, Cummins, Murray, O'Donnell, Ritchie, Smith, Wollmer; Noes: None; Abstain: None; Absent: None.)*
- c. *Motion to leave door hangers on list of campaign communications subject to disclosure: (M/S/C:.Ritchie/Smith. Ayes: Bedrick, Cummins, Murray, O'Donnell, Ritchie, Smith, Wollmer; Noes: None; Abstain: None; Absent: None.)*
- d. *Motion to accept proposal to increase number of substantially similar email and recorded calls considered campaign communications subject to disclosure requirements from 200 to 1000, retain email as a form of campaign communication, and maintain the timeframe as one month: (M/S/C:.Ritchie/Smith. Ayes: Bedrick, Cummins, Murray, O'Donnell, Ritchie, Smith, Wollmer; Noes: None; Abstain: None; Absent: None.)*
- e. *Motion to accept proposal to remove exception for candidate contributions to their own committees: (M/S/C:.Bedrick/Cummins. Ayes: Bedrick, Cummins, Murray, O'Donnell, Ritchie, Smith, Wollmer; Noes: None; Abstain: None; Absent: None.)*

Staff incorporated all of the Commission's revisions and forwarded the revised draft to local news media, in line with BMC Section 2.12.051, and to the Commission for a further vote. At a May 10 special meeting, the Commission approved the revised Section 2.12.335 by a unanimous vote of those in attendance as follows:

*Move to approve Section 2.12.335 as amended: (M/S/C: Murray, Cummins. Ayes: Cummins, Murray, O'Donnell, and Wollmer; Noes: None; Abstain: None; Absent: Ritchie. [Smith on approved leave of absence].)*

The Commission again presents the amendment to the City Council for consideration.

### BACKGROUND

The voters enacted the BERA in 1974 with the following stated purposes:

- "A. Receipts and expenditures in municipal election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.
- B. The amounts that may be expended in municipal elections should be listed in order that the importance of money in such elections may be reduced.
- C. Adequate enforcement mechanisms should be provided to public officials and private citizens in order that this chapter will be vigorously enforced." (BMC § 2.12.015)

BERA may be amended to further these purposes through a "double-green light" procedure. First, the FCPC must approve any amending ordinance by not less than a two-thirds vote of its membership. Second, following a period of at least thirty days, the City

Council must hold a public hearing and also approve the amendment by not less than a two-thirds' vote of its membership. (BMC § 2.12.051.A.)

Since at least 2009, this Commission has been discussing revising the BERA to add reporting and disclosure requirements, with a particular focus on campaign communications by independent expenditure, ballot measure and general purpose committees. In early 2010, the Supreme Court decided the case of *Citizens United*, which expanded corporate campaign spending power by holding that it is unconstitutional for the government to suppress corporate political speech. The case nevertheless confirmed that "[t]he government can regulate corporate political speech through disclaimer and disclosure requirements." (*Citizens United v. FEC* (2010) 130 S. Ct. 876, 886.)

The proposed amendment furthers BERA's purposes while remaining consistent with the constitutional limits set forth in *Citizens United* by providing for fuller disclosure of the source of, and major donors supporting, local campaign communications.

#### RATIONALE FOR RECOMMENDATION

See report.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CITY MANAGER

See companion report.

#### CONTACT PERSON

Steve Wollmer, Chair, Fair Campaign Practices Commission	510 843-2053
Kristy van Herick, Secretary, Fair Campaign Practices Commission	510-981-6998

#### Attachments:

- 1: Ordinance
- 2: Proposed Notice of Public Hearing

ORDINANCE NO. -N.S.

AMENDING THE BERKELEY ELECTION REFORM ACT, BERKELEY MUNICIPAL  
CODE CHAPTER 2.12, TO REQUIRE THE COMMITTEE NAME AND CERTAIN  
CONTRIBUTORS AND LENDERS TO BE LISTED ON CAMPAIGN  
COMMUNICATIONS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code 2.12.335 is added to read as follows:

**Section 2.12.335. Disclosure on campaign communications of certain contributions and loans.**

A. Campaign communications supporting or opposing any candidate or measure shall include the name of the committee and the phrase “Major Funding Provided By” immediately followed by the name of the contributor, the city of domicile, and the total cumulative sum of contributions by each of the top four contributors over \$250 to the committee funding the expenditure made within six months of the expenditure. For purposes of this section, the term “contributor” shall include lender, and committees shall aggregate contributions and any loan balances from the same person when determining the total cumulative sum of contributions from a contributor.

B. The disclosures required by this section shall list contributors in descending order by the cumulative total amount of their contributions and shall be presented in a clear and conspicuous manner to give the reader, observer, or listener adequate notice. For all communications, the complete name of the contributor must be listed. No acronyms may be used. For purposes of this section, “campaign communication” means any of the following items:

1. 1000 or more substantially similar pieces of campaign literature, including but not limited to mailers, flyers, pamphlets, and door hangers;
2. Paid advertisements, including but not limited to advertisements in newspapers, magazines, and on the Internet;
3. 1000 or more substantially similar e-mails or pre-recorded telephone calls made within a calendar month.

C. For purposes of this section, “campaign communication” does not include: small promotional items such as pens, pencils, clothing, mugs, potholders, or other items on which the statement required by this section cannot be reasonably printed or displayed in an easily legible typeface; posters, yard or street signs, billboards, supergraphic signs, skywriting, and similar items; television, cable, satellite, and radio broadcasts or advertisements; communications paid for by a newspaper, radio station, television station or other recognized news medium; and communications from an organization to its members.

D. When a new contribution changes the list of contributors required to be disclosed on campaign communications under subsection A, campaign communications must be updated on the following schedule:

1. For printed campaign communications under subsection B.1 or subsection B.2, disclosures must be updated within seven calendar days to include current disclosure

information every time an order to reproduce the campaign communication is placed, or any time the campaign communication is reprinted;

2. For e-mails or pre-recorded telephone calls under subsection B.3, disclosures must be updated to include current disclosure information within seven calendar days.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**AMENDMENT TO BERKELEY ELECTION REFORM ACT (BERA)**

The Fair Campaign Practices Commission is proposing an amendment to the BERA to add Berkeley Municipal Code section 2.12.335, requiring disclosure on campaign communications of the committee's name and certain contributions and loans received by the committee.

The hearing will be held on **JUNE 26, 2012** at 7:00 p.m. in the City Council chambers, 2134 Martin Luther King, Jr. Way.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **JUNE 14, 2012**.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet. Comments received no later than Monday, **JUNE 11, 2012** will be included in Council agenda packets. Comments received thereafter will be submitted to Council as supplemental communications. For further information, call Mark Numainville, Acting City Clerk, 981-6900. FAX: (510) 981-6901. TDD: (510) 981-6903.

For further information, please contact Kristy van Herick, Staff Secretary at (510) 981-6998.

**Published:** June 15, 2012 – The Berkeley Voice

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on June 14, 2012.

Mark Numainville, Acting City Clerk



1 within 6 months of the contribution, i.e., 6,021 pieces of campaign literature mailed on  
2 November 2, 2016.

3 **\$10,000 LOAN FROM YELDA BARTLETT**

4 4. BERA prohibits “contributions,” including loans (BMC § 2.12.100), which  
5 exceed \$250 to any candidate-controlled committee by any person other than the candidate  
6 himself or herself. (BMC § 2.12.415.) Accordingly, only a “candidate himself or herself” may  
7 contribute more than \$250 to his or her candidate-controlled committee.

8 5. FCPC Regulation R2.12.415.3 governs contributions from joint accounts.  
9 Contributions from joint accounts are presumed to come *from the person who signs the check*.  
10 In order for a contribution to be allocated between accountholders, both accountholders have to  
11 sign the check or an accompanying written statement. The regulation, in full, is as follows:

12 A contribution drawn on a joint account is presumed to come from the person or  
13 persons who signed the check or other instrument. When more than one party to  
14 the joint account intends to make a contribution using a single check or other  
15 instrument, each party to the joint account intending to make the contribution  
16 must sign the check or other instrument, or sign a written statement  
17 accompanying the check or other instrument indicating that all of the signatories  
18 intend to make the contribution. The amount of the contribution shall be  
19 allocated equally between or among the signers, unless otherwise indicated by  
20 the contributors.

21 (FCPC Reg. R2.12.415.3; *see also* BMC § 2.12.210 (authorizing the regulations).)

22 6. On June 29, 2016, Yelda Bartlett, the spouse of candidate Ben Bartlett, wrote  
23 and signed a check in the amount of \$10,000, described as a loan, to the candidate-controlled  
24 committee *Ben Bartlett for Berkeley City Council 2016*. Yelda Bartlett alone signed the check.  
25 The funds came from a joint, personal bank account held by both Yelda Bartlett and Ben  
26 Bartlett. Ben Bartlett explained to staff that Yelda Bartlett customarily signed their checks.  
27 The committee reported the amount as a loan from Yelda Bartlett in its Form 460 campaign  
28 statements for the periods covering January 1 through June 30, 2016, filed August 1, 2016, and  
October 23 through December 31, 2016, filed January 31, 2017.



1           7. Under BERA, the loan from Yelda Bartlett to the committee constituted a  
2 “contribution” under BMC Section 2.12.100, and was subject to the contribution limit set forth  
3 in Section 2.12.415. The loan constituted a contribution from Yelda Bartlett alone under FCPC  
4 Regulation R2.12.415.3. While the contribution was drawn on a joint account held by Yelda  
5 Bartlett and Ben Bartlett, only Yelda Bartlett signed the check. Yelda Bartlett is not the  
6 “candidate himself or herself,” and was therefore subject to the contribution limit of BMC  
7 Section 2.12.415. Accordingly, Yelda Bartlett’s loan to the committee exceeded the \$250  
8 contribution limit by \$9,750. The committee violated Section 2.12.415 by accepting this  
9 contribution.

10                           **“MAJOR FUNDING PROVIDED BY” DISCLOSURE REQUIREMENT**

11           8. BERA’s “major funding provided by” disclosure requirement is set forth in  
12 BMC Section 2.12.335, which provides disclosure requirements for certain “campaign  
13 communications,” including “*one thousand or more* substantially similar pieces of campaign  
14 literature, including but not limited to mailers, flyers, pamphlets, and door hangers.” BMC §  
15 2.12.335.B.1 (emphasis added). These campaign communications must state the phrase “Major  
16 Funding Provided By” followed by “the name of the contributor, the city of domicile, and the  
17 total cumulative sum of contributions *by each of the top four contributors over \$250 to the*  
18 *committee funding the expenditure made within six months of the expenditure.*” BMC §  
19 2.12.335.A (emphasis added).

20           9. The committee received the \$10,000 loan from Yelda Bartlett on June 29, 2016.  
21 Within six months, on October 27, 2016, the committee (through Yelda Bartlett) ordered the  
22 printing and mailing of 6,021 postcards at a cost of \$4,195.40 from Pacific Printing. Pacific  
23 Printing’s sales representative filed a mass mailing certification with the City Clerk’s Office on  
24 behalf of the committee, as required by BMC Section 2.12.150, on November 2, 2016,  
25 certifying under penalty of perjury that the “political mailers” were or would be mailed on  
26 November 2, 2016. The mass mailing did not include any “Major Funding Provided By”  
27 disclosure information.

28



1 30, 2016, filed August 1, 2016, and October 23 through December 31, 2016, filed January 31,  
2 2017.

3 **FACTORS IN AGGRAVATION**

4 14. The committee's November 2, 2016 mass mailer included 6,021 identical  
5 mailers, which is well above the one thousand pieces of campaign literature threshold, which  
6 triggers the "Major Funding Provided By" disclosure under BMC Section 2.12.335.

7 15. The committee failed to provide the "Major Funding Provided By" disclosure for  
8 the \$10,000 contribution on the face of the mailer, which is a sizeable contribution in a Berkeley  
9 election, given the \$250 contribution limit in BMC Section 2.12.415 for all persons aside from  
10 the candidate himself or herself.

11 **PROCEDURAL POSTURE**

12 16. At its July 20, 2017 meeting, the FCPC found probable cause that the committee  
13 had violated both BERA's contribution limit in violation of Section 2.12.415 and the  
14 requirement to provide a "Major Funding Provided By" disclosure on campaign  
15 communications in violation of Section 2.12.335.

16 17. If the Commission held a hearing and concluded that the committee violated  
17 Section 2.12.415, the Commission would have authority to issue a monetary penalty of up to  
18 \$9,750, the amount by which the unlawful contribution exceeded the City's contribution limit.  
19 Following a hearing and a finding that the committee violated Section 2.12.335, the  
20 Commission would have authority to issue a separate monetary penalty of up to \$10,000, which  
21 is the amount of the contribution that the committee failed to disclose on its campaign  
22 communications within six months within the date of the \$10,000 contribution.

23 18. In lieu of setting this matter for a hearing after probable cause determination, the  
24 FCPC delegated authority to the FCPC chair and staff to prepare a Stipulation resolving the two  
25 BERA violations.

26 19. The FCPC moved to require a written statement signed under penalty of perjury  
27 by Ben Bartlett stating that the \$10,000 loan from Yelda Bartlett to the committee was made  
28 with his knowledge, consent, and at his direction, and that the \$10,000 loan, although signed by

1 Yelda, should be attributed as a contribution to his committee from him. The FCPC moved to  
2 impose no monetary penalty for this violation.

3 20. The FCPC recommended a monetary penalty of \$50.00 for the committee's  
4 violation of Section 2.12.335.

5 **ADMISSIONS AND STIPULATIONS**

6 THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the  
7 parties as follows:

8 1. Respondent violated BMC Section 2.12.297 as set forth in paragraphs 1 through  
9 10, above, which are a true and accurate summary of the facts in this matter.

10 2. Based on the facts and law detailed above, factors in aggravation and mitigation,  
11 and BMC Section 2.12.231, Respondent agrees to pay the sum of fifty dollars (\$50.00) as a  
12 monetary penalty, payable to the City of Berkeley for deposit into the City's Fair Elections  
13 Fund, no later than October 12, 2017.

14 3. Respondent agrees to take necessary and prudent precautions to comply with all  
15 provisions of BERA and FCPC regulations in the future. Further, Respondent will seek advice,  
16 as needed, from the City Clerk and FCPC staff on compliance with BERA and FCPC  
17 regulations prior to filing deadlines to aid in future compliance.

18 4. The parties agree to this Stipulation to resolve all factual and legal issues raised  
19 in this matter and to reach a final disposition without having to hold an administrative hearing to  
20 determine the liability of Respondent. Respondent understands and hereby knowingly and  
21 voluntarily waives any and all procedural rights under BERA and the FCPC Procedures in  
22 regards to this matter.

23 5. The FCPC agrees that if Respondent executes this Stipulation, it will forego any  
24 further enforcement action against Respondent as to this matter, and if approved by the FCPC,  
25 this Stipulation will resolve all factual and legal issues raised in this matter and will be the final  
26 disposition of this matter for purposes of BMC Sections 2.12.450 and 2.12.455. Nothing in this  
27 section shall be read to preclude the Commission's consideration of any complaint or other  
28


1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

action for any false statements stemming from any of Respondent's representations in this Stipulation.

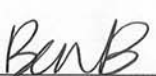
6. The parties agree that if the FCPC refuses to accept this Stipulation, it shall become null and void. Respondent stipulates and agrees that if a full evidentiary hearing before the Commission becomes necessary, no member of the Commission or FCPC staff shall be disqualified because of their consideration of this Stipulation and Order.

7. Respondent acknowledges that the FCPC retains jurisdiction over this Stipulation and Order, and is acting under Section VI.C.2.d of the FCPC Procedures, enacted pursuant to the Commission's authority to enact rules and procedures under BMC Section 2.12.210.

Dated: September 15, 2017

  
\_\_\_\_\_  
FARIMAH BROWN, City Attorney  
Attorney for Fair Campaign Practices Commission

Dated: September 15, 2017

  
\_\_\_\_\_  
BEN BARTLETT, Candidate  
Ben Bartlett for City Council 2016

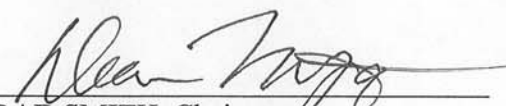
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDER**

The foregoing Stipulation of the parties *In the Matter of Ben Bartlett for Berkeley City Council 2016*, is hereby accepted as the final decision and order of the Fair Campaign Practices Commission effective upon execution below by the Chairperson. Further, it is hereby ordered that this Stipulation, Decision and Order be appended to the committee's campaign statements on file with the Office of the City Clerk, City of Berkeley.

IT IS SO ORDERED.

Dated: September 21, 2017

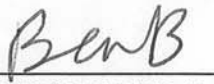
  
\_\_\_\_\_  
BRAD SMITH, Chairperson  
DEAN METZGER, Vice Chairperson  
FAIR CAMPAIGN PRACTICES COMMISSION

I, Ben Bartlett, attest under the penalty of perjury that I issued a check from my joint bank account for \$10,000 in the form of a loan to my campaign account for City Council.

My wife signed the check from our joint personal account bearing both of our names on my behalf and at my direction because she typically writes the checks for our family expenses.

In retrospect, I should have signed the check myself to make it clear that I was making a loan to the campaign.

Dated: September 17, 2017

  
\_\_\_\_\_  
BEN BARTLETT, Candidate  
Ben Bartlett for City Council 2016



Fair Campaign Practices Commission

Date: February 18, 2021  
To: Fair Campaign Practices Commission  
From: Samuel Harvey, Secretary  
Subject: Complaint alleging violation of BERA by Compassionate Bay

On October 15, 2020, Commission staff received the attached complaint alleging that the campaign committee Wayne Hsiung for Mayor 2020 and an organization called Compassionate Bay have violated the Berkeley Election Reform Act (“BERA”) (BMC Ch. 2.12). (Attachment 1.) At its January 21, 2021 meeting, the Commission dismissed this matter with regards to Wayne Hsiung for Mayor 2020.

The complaint provides a door hanger distributed by Compassionate Bay which may have failed to include the disclaimer required by Berkeley Municipal Code (“BMC”) section 2.12.335. Additionally the complaint indicates that Compassionate Bay (“CB” or “the committee”) may have failed to register as a campaign committee and file applicable disclosures.

The complaint includes an image of a door hanger allegedly circulated by CB which does not contain any disclaimer. At the time the complaint was filed, CB had not registered or filed any campaign reports with the City Clerk. Following initiation of this matter by the Commission, CB filed a number of reports with the Clerk. The complaint asserts that CB has qualified as either an independent committee or a slate mailer organization under BERA. CB has registered as an independent committee.

The door hangers are titled “Compassionate Bay Voter Guide 2020” and state “Please vote via mail (see back of this guide) or in person November 3, 2020.” The hanger included the images, names and offices sought of four Berkeley candidates: Wayne Hsiung (Mayor); Cheryl Davila (Council District 2); Ben Bartlett (Council District 3); and Paul Darwin Picklesimer (Council District 5).

The committee’s campaign reports show total contributions received of \$535 in the form of two in-kind payments for the production of the door hanger.

#### 1. Door hangers

BERA section 2.12.335 provides that “campaign communications,” including “[o]ne thousand or more substantially similar pieces of campaign literature, including but not limited to . . . door hangers” must include (1) the name of the committee and (2) the words “Major funding provided by” followed by the name, dollar amount and city of the top four contributors who have given over \$250 to the committee.



January 21, 2020

Page 2 Re: Wayne Hsiung for Mayor 2020 – Compassionate Bay

Staff has not determined that over 1,000 such door hangers were distributed by compassionate bay. Nonetheless, staff concludes that the door hangers substantially comply with BMC section 2.12.335. Although the door hangers do not include a standard disclaimer along the bottom as is common practice, Section 2.12.335 merely requires that the door hangers the name of the committee. Here, the door hanger includes the words “Compassionate Bay” twice across the top. Moreover, because the committee has not received any contributions over \$250 from a single source, no “Major funding” information is required. Staff therefore conclude that there is insufficient evidence for a finding of probable cause that the door hangers violated section 2.12.335.

## 2. Campaign Reports

Compassionate Bay qualified as a “committee” under the Berkeley Election Reform Act (“BERA”). BMC § 2.12.095 defines a “committee” as “any person or combination of persons that directly or indirectly receives contributions which total more than two hundred fifty dollars in a calendar year . . . for the purpose of influencing or attempting to influence the action of voters for or against the nomination or election of one or more candidates.” As CB’s reports show, the committee received in-kind contributions of \$535 for the creation of the door hanger.

Section 2.12.225 provides that “every committee . . . shall file with the City Clerk a statement of organization within ten days after it is formed as a committee.” Therefore, the statement of organization (“Form 410”) was due ten days after it crossed the \$250 contribution threshold.

An in-kind contribution is deemed received by the committee on the earlier of (1) the date the funds were expended, or (2) the date the committee received the benefit of the expenditure. (2 CCR § 18421.1(f).)

According the CB’s reports, the \$250 threshold was met based on time of expenditure on October 15, 2020. Compassionate Bay filed its Statement of Organization (Form 410) on October 26, 2020. Based on the date the committee crossed the \$250 threshold on October 15, 2020, the Form 410 was due on October 25, 2020. October 25, 2020 was a Sunday. As a result, the Form 410 was timely filed on Monday, October 26, 2020.

Here, it is possible that the door hangers were printed and made available to the committee earlier than October 15, 2020, in which case, the committee would have “received the benefit” of the expenditure earlier than the date the final payment was made on October 15, 2020. It is therefore possible that the committee qualified sooner. However, there is insufficient evidence to indicate that the hangers were received sooner. Moreover, even if the hangers had been received on October 14, 2020, the October 26, 2020 filing date would have been timely. Given the lack of evidence suggesting otherwise, and the relatively minor potential violation at stake, staff believes there is insufficient evidence to suggest an untimely filing of the committee’s Form 410.

## 3. Irregularities

January 21, 2020

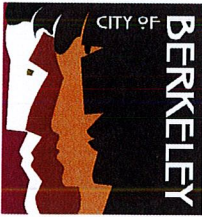
Page 3 Re: Wayne Hsiung for Mayor 2020 – Compassionate Bay

Staff has identified at least one minor irregularity in the committee's filings. Specifically, the summary page on the committee's Form 460 erroneously discloses the total in-kind contributions received amount under "Expenditures Made" rather than "Contributions Received."

As discussed above, staff does not believe there is probable cause to believe Compassionate Bay has violated BERA. Staff recommends the Commission dismiss the matter without making a finding of probable case.

Attachments:

1. Complaint of Jacquelyn McCormick and attachments
2. Compassionate Bay Statements of Organization and reports
3. City of Berkeley Campaign Statement Filing Schedule



Fair Campaign Practices Commission

Date: November 13, 2020  
To: Fair Campaign Practices Commission  
From: Samuel Harvey, Secretary  
Subject: Complaint alleging violation of BERA by Wayne Hsiung for Mayor 2020 and Compassionate Bay

On October 15, 2020, Commission staff received the attached complaint alleging that the campaign committee Wayne Hsiung for Mayor 2020 and an organization called Compassionate Bay have violated the Berkeley Election Reform Act ("BERA") (BMC Ch. 2.12). The complaint alleges that two campaign advertisements have failed to include the disclaimer required by Berkeley Municipal Code ("BMC") section 2.12.335. Additionally the complaint indicates that Compassionate Bay may have failed to register as a campaign committee and file applicable disclosures.

The complaint includes an image of a flyer supporting the candidacy of Wayne Hsiung and a door hanger titled "Compassionate Bay Voter Guide." The flyer appears to be an advertisement distributed by Wayne Hsiung for Mayor 2020. The door hanger appears to be distributed by the organization Compassionate Bay and does not appear to be affiliated with Wayne Hsiung for Mayor 2020.

Section 2.12.335 of BERA provides that:

- A. Campaign communications supporting or opposing any candidate or measure shall include the name of the committee and the phrase "Major Funding Provided By" immediately followed by the name of the contributor, the city of domicile, and the total cumulative sum of contributions by each of the top four contributors over \$250 to the committee funding the expenditure made within six months of the expenditure. . . .
- B. The disclosures required by this section shall list contributors in descending order by the cumulative total amount of their contributions and shall be presented in a clear and conspicuous manner to give the reader, observer, or listener adequate notice. For all communications, the complete name of the contributor must be listed. No acronyms may be used. For purposes of this section, "campaign communication" means any of the following items:
  1. One thousand or more substantially similar pieces of campaign literature, including but not limited to mailers, flyers, pamphlets, and door hangers;
  2. Paid advertisements, including but not limited to advertisements in

November 13, 2020

Page 2 Re: Wayne Hsiung for Mayor 2020 – Compassionate Bay

newspapers, magazines, and on the Internet;

3. One thousand or more substantially similar e-mails or pre-recorded telephone calls made within a calendar month.

One or more of the advertisements which are the subject of this complaint may have failed to include a disclaimer required by section 2.12.335. However, staff will need to investigate to determine the source of the subject advertisements and to verify the required disclaimers, if any.

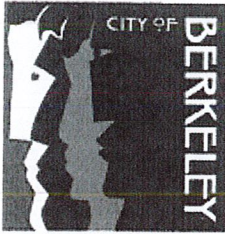
As the complaint notes, the entity Compassionate Bay may have qualified as an independent committee (see BMC § 2.12.140) or as a slate mailer organization (see BMC § 2.12.272). Staff will need to review Compassionate Bay's activity and any campaign reports to determine whether the entity has properly registered and reported its campaign activities.

Under the Commission's Procedures, at this stage, the Commission may (1) direct the Secretary to investigate the complaint, to the extent the Secretary has not already done so; (2) dismiss the complaint; or (c) find probable cause to believe BERA has been violated. (FCPC Procedures Section V.B.2.) Staff recommends the Commission direct the Secretary to investigate the complaint further and return at a future meeting with a subsequent report. Staff believes, based upon initial review, that the evidence provided in the complaint is sufficient such that the complaint should not be dismissed, but is insufficient to support a finding of probable cause of a violation at this stage.

Attachments:

1. Complaint of Jacquelyn McCormick and attachments





Fair Campaign Practices Commission

### Complaint of Noncompliance Berkeley Election Reform Act ("BERA")\*

Full Name: Jacquelyn McCormick  
Date: October 15, 2020  
Address: [REDACTED]  
E-mail (optional but suggested): robleroad@gmail.com  
Phone (optional but suggested): \_\_\_\_\_

Party or parties alleged to have committed or are about to commit a violation of BERA:  
Wayne Hsuing for Mayor 2020  
Compassionate Bay Voter Guide 2020

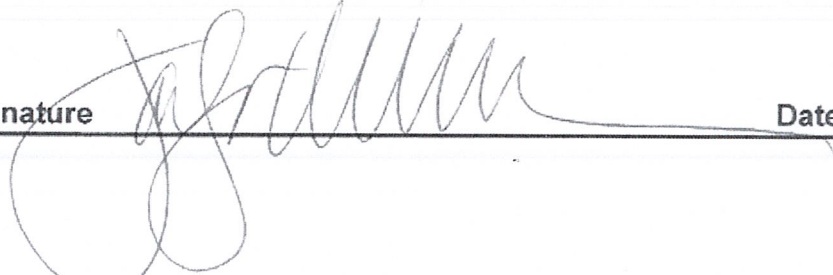
Clear, concise and accurate statement of the facts that constitute the violation of BERA.  
If additional space is needed, you may attach additional pages:

I wish to bring to the attention of the FCPC several apparent violations of BERA. The first concerns use of campaign literature and doorhangers disseminated by or on behalf of Wayne Hsuing, a candidate for Berkeley Mayor in the November 2020 election. As the attached documentation demonstrates, none of these contain the kind of disclosure required under BMC 2.12.335.A. Further the propagation of these door hangers and other campaign literature makes it highly likely that the threshold enumerated in BMC 2.12.335.B(1) ("One thousand or more substantially similar pieces of campaign literature, including, but not limited to, flyers, pamphlets, and door hangers") is exceeded. The second concerns several apparent violations associated with the "Compassionate Bay Voter Guide 2020". The same lack of disclosure enumerated above applies here, and there are other violations. On the face, this appears to be either a SMO or IE. However, neither Netfile nor state filing reports show any evidence of either type of committee being formed, and no campaign reports required under BMC 2.12.272 are evident. Further, if an SMO, no disclosure of payments by candidates of their likeness on the state mailer is evident, nor is there a required asterisk denoting that endorsed candidates were not asked to pay for the doorhanger. If an IE, no BERA or FPPC-required disclaimer exists on the card as to the name of the committee or who/what are the major funders.

Documents: Attach any documentation supporting the facts alleged.

Statements that are not based upon personal knowledge should identify the source of information that gives rise to the complainant's belief in the truth of such statements.

***I declare under penalty of perjury under the laws of the State of California that all information submitted hereon and in the attachments is true and correct.***

Signature  Date 10-15-2020

\*Use this "Complaint of Noncompliance" form to allege a violation of BERA pursuant to Berkeley Municipal Code Section 2.12.225 and the *Procedures of the Fair Campaign Practices Commission*.



COMPASSIONATEBAY.ORG

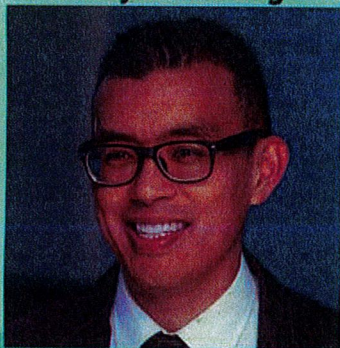
COMPASSIONATE

# BAY

## VOTER GUIDE 2020

Please vote via mail (see the back of this guide),  
or in person on November 3, 2020.

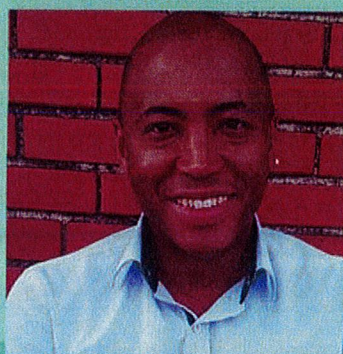
Mayor of Berkeley  
**Wayne Hsiung**



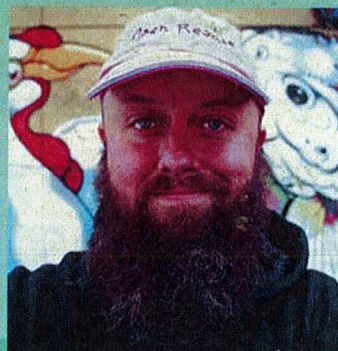
Berkeley  
City Council District 2  
**Cheryl Davila**



Berkeley  
City Council District 3  
**Ben Bartlett**



Berkeley  
City Council District 5  
**Paul Darwin Picklesimer**







# WAYNE HSIUNG

for mayor



## Housing For Everyone

We'll fight to transform under-utilized corporate property into thousands of units of affordable housing.

## Green New Deal

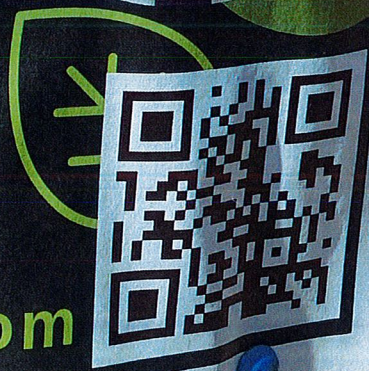
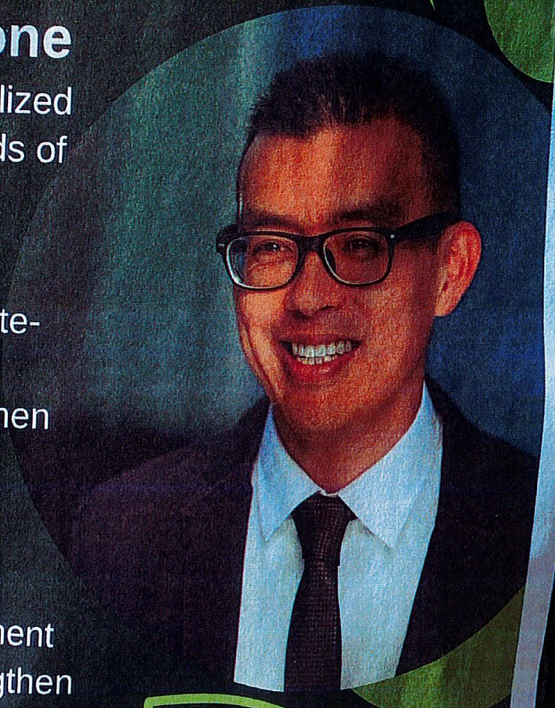
We'll divest city funds from climate-destroying industries and build a carbon neutral Green District -- then expand it to the rest of the city

## Police Reform

We'll end police militarization and transform Berkeley Police Department into a Public Safety Force to strengthen our community.

## Funded By Small Donors

We've rejected corporate PAC money and only accepts contributions from individuals up to \$50.



[wayneformayor.com](http://wayneformayor.com)



**CITY OF BERKELEY STATEMENT OF ORGANIZATION**

CITY OF BERKELEY  
CITY CLERK'S DEPARTMENT

The Berkeley Election Reform Act (BERA) requires every committee to file with the City of Berkeley Statement of Organization **within ten (10) days** after it is formed as a committee. (Berkeley Municipal Code (BMC) § 2.12.255.) "Committee" means any person or combination of persons that directly or indirectly receives contributions or makes expenditures exceeding \$250 in a calendar year for the purpose of influencing or attempting to influence the voters for or against the nomination or election of one or more candidates, or the passage or defeat of any measure, including any committee or subcommittee of a political party. (BMC § 2.12.095.)

The information required to be reported on the statement of organization is set forth in BMC § 2.12.260. In order to comply with the disclosure requirements of Section 2.12.260, all committees must complete and file both the City of Berkeley Statement of Organization as well as the State Form 410.

Every committee that spends or receives contributions of \$250 or more in a calendar year must file both this form and State Form 410 with the City Clerk to comply with local law. Review the Form 410 filing instructions to determine if you must also file your Form 410 with the Secretary of State.

**Provide the following information in addition to completing a State Form 410. File both forms with the City Clerk within 10 days of the date the committee is formed.**

Initial  Amendment

Name of Committee: Compassionate Bay

Date Formed: Sept. 25, 2020 Telephone Number: n/a

Address: organizers@compassionatebay.org

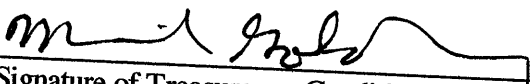
This Committee is independent  or controlled  (Check applicable box.)

Amount of cash on hand at time of filing: 0

**Verification:**

I have used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Oct. 23 2020  
Date

  
Signature of Treasurer or Candidate



**Statement of Organization  
Recipient Committee**

Statement Type

|                                                                                                               |                                                    |                                                   |
|---------------------------------------------------------------------------------------------------------------|----------------------------------------------------|---------------------------------------------------|
| <input checked="" type="checkbox"/> Initial                                                                   | <input type="checkbox"/> Amendment                 | <input type="checkbox"/> Termination – See Part 5 |
| <input type="checkbox"/> Not yet qualified<br>or<br><input type="checkbox"/> Date qualification threshold met | Date qualification threshold met<br>____/____/____ | Date of termination<br>____/____/____             |

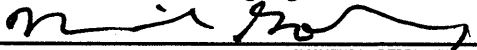
Date Stamp  
**RECEIVED**  
OCT 26 2020  
CITY OF BERKELEY  
CITY CLERK DEPARTMENT


**CALIFORNIA FORM 410**  
For Official Use Only

| 1. Committee Information                                                     |                                        | I.D. Number pending<br><small>(if applicable)</small> |                 | 2. Treasurer and Other Principal Officers  |       |          |                 |
|------------------------------------------------------------------------------|----------------------------------------|-------------------------------------------------------|-----------------|--------------------------------------------|-------|----------|-----------------|
| NAME OF COMMITTEE<br>Compassionate Bay                                       |                                        |                                                       |                 | NAME OF TREASURER<br>Michael Goldberg      |       |          |                 |
| STREET ADDRESS (NO P.O. BOX)<br>n/a There is no office for Compassionate Bay |                                        |                                                       |                 | STREET ADDRESS (NO P.O. BOX)               |       |          |                 |
| CITY                                                                         | STATE                                  | ZIP CODE                                              | AREA CODE/PHONE | CITY                                       | STATE | ZIP CODE | AREA CODE/PHONE |
|                                                                              |                                        |                                                       |                 | El Cerrito                                 | CA    | 94930    | 707-287-0081    |
| FULL MAILING ADDRESS (IF DIFFERENT)                                          |                                        |                                                       |                 | NAME OF ASSISTANT TREASURER, IF ANY<br>n/a |       |          |                 |
| E-MAIL ADDRESS (REQUIRED) / FAX (OPTIONAL)<br>michael@compassionatebay.org   |                                        |                                                       |                 | STREET ADDRESS (NO P.O. BOX)               |       |          |                 |
| CITY                                                                         | STATE                                  | ZIP CODE                                              | AREA CODE/PHONE | CITY                                       | STATE | ZIP CODE | AREA CODE/PHONE |
|                                                                              |                                        |                                                       |                 |                                            |       |          |                 |
| COUNTY OF DOMICILE                                                           | JURISDICTION WHERE COMMITTEE IS ACTIVE |                                                       |                 | NAME OF PRINCIPAL OFFICER(S)               |       |          |                 |
|                                                                              | Berkeley                               |                                                       |                 | Michael Goldberg                           |       |          |                 |
| Attach additional information on appropriately labeled continuation sheets.  |                                        |                                                       |                 | STREET ADDRESS (NO P.O. BOX)               |       |          |                 |
| CITY                                                                         | STATE                                  | ZIP CODE                                              | AREA CODE/PHONE | CITY                                       | STATE | ZIP CODE | AREA CODE/PHONE |
|                                                                              |                                        |                                                       |                 | El Cerrito                                 | CA    | 94530    | 707-287-0081    |

**3. Verification**

I have used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on Oct. 23, 2020 By   
DATE SIGNATURE OF TREASURER OR ASSISTANT TREASURER

Executed on Oct. 23, 2020 By   
DATE SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

Executed on \_\_\_\_\_ By \_\_\_\_\_  
DATE SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

Executed on \_\_\_\_\_ By \_\_\_\_\_  
DATE SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

**Statement of Organization  
Recipient Committee**

INSTRUCTIONS ON REVERSE

**CALIFORNIA FORM 410**

Page 2

|                                     |             |
|-------------------------------------|-------------|
| COMMITTEE NAME<br>Compassionate Bay | I.D. NUMBER |
|-------------------------------------|-------------|

• All committees must list the financial institution where the campaign bank account is located.

|                                      |                        |                            |
|--------------------------------------|------------------------|----------------------------|
| NAME OF FINANCIAL INSTITUTION<br>n/a | AREA CODE/PHONE<br>n/a | BANK ACCOUNT NUMBER<br>n/a |
|--------------------------------------|------------------------|----------------------------|

|                                      |      |       |          |
|--------------------------------------|------|-------|----------|
| ADDRESS<br>All activity was in kind. | CITY | STATE | ZIP CODE |
|--------------------------------------|------|-------|----------|

**4. Type of Committee** Complete the applicable sections.

**Controlled Committee**

- List the name of each controlling officeholder, candidate, or state measure proponent. If candidate or officeholder controlled, also list the elective office sought or held, and district number, if any, and the year of the election.
- List the political party with which each officeholder or candidate is affiliated or check "nonpartisan." Stating "No party preference" is acceptable
- If this committee acts jointly with another controlled committee, list the name and identification number of the other controlled committee.

| NAME OF CANDIDATE/OFFICEHOLDER/STATE MEASURE PROPONENT | ELECTIVE OFFICE SOUGHT OR HELD<br>(INCLUDE DISTRICT NUMBER IF APPLICABLE) | YEAR OF ELECTION | PARTY       |          | (list political party below) |
|--------------------------------------------------------|---------------------------------------------------------------------------|------------------|-------------|----------|------------------------------|
|                                                        |                                                                           |                  | Nonpartisan | Partisan |                              |
|                                                        |                                                                           |                  |             |          | (list political party below) |
|                                                        |                                                                           |                  |             |          | (list political party below) |

**Primarily Formed Committee**

Primarily formed to support or oppose specific candidates or measures in a single election. List below:

| CANDIDATE(S) NAME OR MEASURE(S) FULL TITLE (INCLUDE BALLOT NO. OR LETTER)<br>IF A RECALL, STATE "RECALL" IN FRONT OF THE OFFICEHOLDER'S NAME. | CANDIDATE(S) OFFICE SOUGHT OR HELD OR MEASURE(S) JURISDICTION<br>(INCLUDE DISTRICT NO., CITY OR COUNTY, AS APPLICABLE) | CHECK ONE |        |
|-----------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|-----------|--------|
|                                                                                                                                               |                                                                                                                        | SUPPORT   | OPPOSE |
|                                                                                                                                               |                                                                                                                        |           |        |
|                                                                                                                                               |                                                                                                                        |           |        |

**Statement of Organization  
Recipient Committee**

INSTRUCTIONS ON REVERSE

|                                |
|--------------------------------|
| <b>CALIFORNIA<br/>FORM 410</b> |
| Page 3                         |
| I.D. NUMBER                    |

COMMITTEE NAME

**4. Type of Committee** (Continued)

*General Purpose Committee*

Not formed to support or oppose specific candidates or measures in a single election. Check only one box:

- CITY Committee     
  COUNTY Committee     
  STATE Committee

PROVIDE BRIEF DESCRIPTION OF ACTIVITY

Support or oppose candidate in the city of Berkeley.

*Sponsored Committee*

List additional sponsors on an attachment.

NAME OF SPONSOR

n/a

INDUSTRY GROUP OR AFFILIATION OF SPONSOR

STREET ADDRESS

NO. AND STREET

CITY

STATE

ZIP CODE

AREA CODE/PHONE

*Small Contributor Committee*

\_\_\_\_/\_\_\_\_/\_\_\_\_

Date qualified

**5. Termination Requirements**

By signing the verification, the treasurer, assistant treasurer and/or candidate, officeholder, or ponent certify that all of the following conditions have been met:

- This committee has ceased to receive contributions and make expenditures;
- This committee does not anticipate receiving contributions or making expenditures in the future;
- This committee has eliminated or has no intention or ability to discharge all debts, loans received, and other obligations;
- This committee has no surplus funds; and
- This committee has filed all campaign statements required by the Political Reform Act disclosing all reportable transactions.
  - There are restrictions on the disposition of surplus campaign funds held by elected officers who are leaving office and by defeated candidates. Refer to Government Code Section 89519.
  - Leftover funds of ballot measure committees may be used for political, legislative or governmental purposes under Government Code Sections 89511 - 89518, and are subject to Elections Code Section 18680 and FPPC Regulation 18521.5.

**Recipient Committee  
Campaign Statement  
Cover Page**

|                                                                                           |                                                    |
|-------------------------------------------------------------------------------------------|----------------------------------------------------|
| Date Stamp<br><b>RECEIVED</b><br>OCT 26 2020<br>CITY OF BERKELEY<br>CITY CLERK DEPARTMENT | CALIFORNIA<br>FORM <b>460</b>                      |
|                                                                                           | Page <u>1</u> of <u>5</u><br>For Official Use Only |

|                                                                                     |                                                                           |
|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| Statement covers period<br>from <u>Jan. 1, 2020</u><br>through <u>Oct. 17, 2020</u> | Date of election if applicable:<br>(Month, Day, Year)<br><u>11/3/2020</u> |
|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------|

SEE INSTRUCTIONS ON REVERSE

**1. Type of Recipient Committee:** All Committees - Complete Parts 1, 2, 3, and 4.

|                                                                                                                                                                                                                  |                                                                                                                                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Officeholder, Candidate Controlled Committee<br><input type="radio"/> State Candidate Election Committee<br><input type="radio"/> Recall<br><small>(Also Complete Part 5)</small>       | <input type="checkbox"/> Primarily Formed Ballot Measure Committee<br><input type="radio"/> Controlled<br><input type="radio"/> Sponsored<br><small>(Also Complete Part 6)</small> |
| <input checked="" type="checkbox"/> General Purpose Committee<br><input type="radio"/> Sponsored<br><input type="radio"/> Small Contributor Committee<br><input type="radio"/> Political Party/Central Committee | <input type="checkbox"/> Primarily Formed Candidate/Officeholder Committee<br><small>(Also Complete Part 7)</small>                                                                |

**2. Type of Statement:**

|                                                                                                     |                                                  |
|-----------------------------------------------------------------------------------------------------|--------------------------------------------------|
| <input checked="" type="checkbox"/> Preelection Statement                                           | <input type="checkbox"/> Quarterly Statement     |
| <input type="checkbox"/> Semi-annual Statement                                                      | <input type="checkbox"/> Special Odd-Year Report |
| <input type="checkbox"/> Termination Statement<br><small>(Also file a Form 410 Termination)</small> |                                                  |
| <input type="checkbox"/> Amendment (Explain below)                                                  |                                                  |

**3. Committee Information**

I.D. NUMBER not received yet

COMMITTEE NAME (OR CANDIDATE'S NAME IF NO COMMITTEE)  
Compassionate Bay

STREET ADDRESS (NO P.O. BOX)  
N/a - we have no office

|                                          |       |          |                 |
|------------------------------------------|-------|----------|-----------------|
| CITY                                     | STATE | ZIP CODE | AREA CODE/PHONE |
| <u>N/a - we have no mailing address:</u> |       |          | <u>N/a</u>      |

MAILING ADDRESS (IF DIFFERENT) NO. AND STREET OR P.O. BOX  
7321 Terrace Drive

|      |       |          |                 |
|------|-------|----------|-----------------|
| CITY | STATE | ZIP CODE | AREA CODE/PHONE |
|      |       |          |                 |

OPTIONAL: FAX / E-MAIL ADDRESS  
michael@compassionatebay.org

**Treasurer(s)**

NAME OF TREASURER  
Michael Goldberg

MAILING ADDRESS

|                   |           |              |                     |
|-------------------|-----------|--------------|---------------------|
| CITY              | STATE     | ZIP CODE     | AREA CODE/PHONE     |
| <u>El Cerrito</u> | <u>CA</u> | <u>94530</u> | <u>707-287-0081</u> |

NAME OF ASSISTANT TREASURER, IF ANY  
n/a

MAILING ADDRESS

|      |       |          |                 |
|------|-------|----------|-----------------|
| CITY | STATE | ZIP CODE | AREA CODE/PHONE |
|      |       |          |                 |

OPTIONAL: FAX / E-MAIL ADDRESS

**4. Verification**

I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

|                                                         |                                                                                                                                                     |
|---------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| Executed on <u>Oct. 23, 2020</u><br><small>Date</small> | By <u>[Signature]</u><br><small>Signature of Treasurer or Assistant Treasurer</small>                                                               |
| Executed on <u>Oct-23, 2020</u><br><small>Date</small>  | By <u>[Signature]</u><br><small>Signature of Controlling Officeholder, Candidate, State Measure Proponent or Responsible Officer of Sponsor</small> |
| Executed on _____<br><small>Date</small>                | By _____<br><small>Signature of Controlling Officeholder, Candidate, State Measure Proponent</small>                                                |
| Executed on _____<br><small>Date</small>                | By _____<br><small>Signature of Controlling Officeholder, Candidate, State Measure Proponent</small>                                                |

Campaign Disclosure Statement Summary Page

Amounts may be rounded to whole dollars.

Statement covers period from 1/1/2020 through 10/17/2020 CALIFORNIA FORM 460 Page 2 of 5 I.D. NUMBER pending

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER Compassionate Bay

Table with 5 rows: Contributions Received. Columns: Description, Column A (Total This Period), Column B (Calendar Year Total to Date). Rows include Monetary Contributions, Loans Received, SUBTOTAL CASH CONTRIBUTIONS, Nonmonetary Contributions, and TOTAL CONTRIBUTIONS RECEIVED.

Calendar Year Summary for Candidates Running in Both the State Primary and General Elections. Table with 2 columns: 1/1 through 6/30, 7/1 to Date. Rows: 20. Contributions Received, 21. Expenditures Made.

Table with 11 rows: Expenditures Made. Columns: Description, Column A (Total This Period), Column B (Calendar Year Total to Date). Rows include Payments Made, Loans Made, SUBTOTAL CASH PAYMENTS, Accrued Expenses (Unpaid Bills), Nonmonetary Adjustment, and TOTAL EXPENDITURES MADE.

Expenditure Limit Summary for State Candidates. Section 22. Cumulative Expenditures Made\* (If Subject to Voluntary Expenditure Limit). Includes Date of Election and Total to Date fields.

Table with 6 rows: Current Cash Statement. Columns: Description, Amount. Rows include Beginning Cash Balance, Cash Receipts, Miscellaneous Increases to Cash, Cash Payments, and ENDING CASH BALANCE.

To calculate Column B, add amounts in Column A to the corresponding amounts from Column B of your last report. Some amounts in Column A may be negative figures that should be subtracted from previous period amounts. If this is the first report being filed for this calendar year, only carry over the amounts from Lines 2, 7, and 9 (if any).

Table with 1 row: 17. LOAN GUARANTEES RECEIVED. Amount: 0.

Table with 3 rows: Cash Equivalents and Outstanding Debts. Rows include Cash Equivalents and Outstanding Debts.

\*Amounts in this section may be different from amounts reported in Column B.

**Schedule C  
Nonmonetary Contributions Received**

Amounts may be rounded  
to whole dollars.

SCHEDULE C

|                                                                              |                                |
|------------------------------------------------------------------------------|--------------------------------|
| Statement covers period<br>from <u>1/1/2020</u><br>through <u>10/17/2020</u> | <b>CALIFORNIA<br/>FORM 460</b> |
|                                                                              | Page <u>3</u> of <u>5</u>      |

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

*Compassionate Bay*

I.D. NUMBER

*pending*

| DATE RECEIVED | FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER) | CONTRIBUTOR CODE*                                                                                                                                                       | IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS) | DESCRIPTION OF GOODS OR SERVICES | AMOUNT/ FAIR MARKET VALUE | CUMULATIVE TO DATE CALENDAR YEAR (JAN 1 - DEC 31) | PER ELECTION TO DATE (IF REQUIRED) |
|---------------|----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|----------------------------------|---------------------------|---------------------------------------------------|------------------------------------|
| 9/25/2020     | Michael Goldberg<br>7321 Terrace Drive<br>El Cerrito, CA 94530                               | <input checked="" type="checkbox"/> IND<br><input type="checkbox"/> COM<br><input type="checkbox"/> OTH<br><input type="checkbox"/> PTY<br><input type="checkbox"/> SCC | journalist<br>self-employed<br>Michael Goldberg                                            | partial cost of a doorhanger     | \$227.50                  | \$227.50                                          |                                    |
| 10/15/2020    | Crystal Heath<br>3015 San Pablo Ave.<br>#205<br>Berkeley, CA 94702                           | <input checked="" type="checkbox"/> IND<br><input type="checkbox"/> COM<br><input type="checkbox"/> OTH<br><input type="checkbox"/> PTY<br><input type="checkbox"/> SCC | veterinarian<br>self-employed<br>Crystal Heath                                             | partial cost of a doorhanger     | \$207.50                  | \$207.50                                          |                                    |
|               |                                                                                              | <input type="checkbox"/> IND<br><input type="checkbox"/> COM<br><input type="checkbox"/> OTH<br><input type="checkbox"/> PTY<br><input type="checkbox"/> SCC            |                                                                                            |                                  |                           |                                                   |                                    |
|               |                                                                                              | <input type="checkbox"/> IND<br><input type="checkbox"/> COM<br><input type="checkbox"/> OTH<br><input type="checkbox"/> PTY<br><input type="checkbox"/> SCC            |                                                                                            |                                  |                           |                                                   |                                    |

Attach additional information on appropriately labeled continuation sheets.

**SUBTOTAL \$**

**Schedule C Summary**

|                                                                                                                                                     |                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 1. Amount received this period – itemized nonmonetary contributions.<br>(Include all Schedule C subtotals.).....                                    | \$ 435.00              |
| 2. Amount received this period – unitemized nonmonetary contributions of less than \$100 .....                                                      | \$ 100.00              |
| 3. Total nonmonetary contributions received this period.<br>(Add Lines 1 and 2. Enter here and on the Summary Page, Column A, Lines 4 and 10.)..... | <b>TOTAL \$ 535.00</b> |

\*Contributor Codes  
IND – Individual  
COM – Recipient Committee  
(other than PTY or SCC)  
OTH – Other (e.g., business entity)  
PTY – Political Party  
SCC – Small Contributor Committee

**Schedule D  
Summary of Expenditures  
Supporting/Opposing Other  
Candidates, Measures and Committees**

Amounts may be rounded  
to whole dollars.

Statement covers period  
from 01/01/2020  
through 10/17/2020

SCHEDULE D  
**CALIFORNIA FORM 460**  
Page 4 of 5

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

Compassionate Bay

I.D. NUMBER

pending

| DATE               | NAME OF CANDIDATE, OFFICE, AND DISTRICT, OR MEASURE NUMBER OR LETTER AND JURISDICTION, OR COMMITTEE                 | TYPE OF PAYMENT                                                                                                                                                    | DESCRIPTION (IF REQUIRED)                                     | AMOUNT THIS PERIOD | CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31) | PER ELECTION TO DATE (IF REQUIRED) |
|--------------------|---------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|--------------------|-----------------------------------------------------|------------------------------------|
| 10/09/2020         | Cheryl Davila, City Council, Dist. 2<br><input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose | <input type="checkbox"/> Monetary Contribution<br><input type="checkbox"/> Nonmonetary Contribution<br><input checked="" type="checkbox"/> Independent Expenditure | Was one of four candidates who were on voter guide doorhanger | \$133.00           | \$133.00                                            | \$133.00                           |
| 10/09/2020         | Ben Bartlett, City Council, Dist. 3<br><input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose  | <input type="checkbox"/> Monetary Contribution<br><input type="checkbox"/> Nonmonetary Contribution<br><input checked="" type="checkbox"/> Independent Expenditure | Was one of four candidates who were on voter guide doorhanger | \$133.00           | \$133.00                                            | \$133.00                           |
| 10/09/2020         | Wayne Hsiung, Mayor<br><input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose                  | <input type="checkbox"/> Monetary Contribution<br><input type="checkbox"/> Nonmonetary Contribution<br><input type="checkbox"/> Independent Expenditure            | Was one of four candidates who were on voter guide doorhanger | \$133.00           | \$133.00                                            | \$133.00                           |
| <b>SUBTOTAL \$</b> |                                                                                                                     |                                                                                                                                                                    |                                                               |                    |                                                     |                                    |

**Schedule D Summary**

- Itemized contributions and independent expenditures made this period. (Include all Schedule D subtotals.)..... \$ 399.00
- Unitemized contributions and independent expenditures made this period of under \$100..... \$
- Total contributions and independent expenditures made this period. (Add Lines 1 and 2. Do not enter on the Summary Page.)..... **TOTAL .. \$ 399.00**

**Schedule D  
(Continuation Sheet)  
Summary of Expenditures  
Supporting/Opposing Other  
Candidates, Measures and Committees**

Amounts may be rounded  
to whole dollars.

SCHEDULE D (CONT.)

|                                                                              |                            |
|------------------------------------------------------------------------------|----------------------------|
| Statement covers period<br>from <u>1/1/2020</u><br>through <u>10/17/2020</u> | <b>CALIFORNIA FORM 460</b> |
|                                                                              | Page <u>5</u> of <u>5</u>  |
| I.D. NUMBER<br><u>pending</u>                                                |                            |

NAME OF FILER  
Compassionate Bay

| DATE      | NAME OF CANDIDATE, OFFICE, AND DISTRICT, OR MEASURE NUMBER OR LETTER AND JURISDICTION, OR COMMITTEE | TYPE OF PAYMENT                                                                                                                                                    | DESCRIPTION (IF REQUIRED)                                     | AMOUNT THIS PERIOD | CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31) | PER ELECTION TO DATE (IF REQUIRED) |
|-----------|-----------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|--------------------|-----------------------------------------------------|------------------------------------|
| 10/9/2020 | Paul Darwin Picklesimer, City Council, Dist. 5                                                      | <input type="checkbox"/> Monetary Contribution<br><input type="checkbox"/> Nonmonetary Contribution<br><input checked="" type="checkbox"/> Independent Expenditure | Was one of four candidates who were on voter guide doorhanger | \$133.00           | \$133.00                                            | \$133.00                           |
|           | <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose                         |                                                                                                                                                                    |                                                               |                    |                                                     |                                    |
|           |                                                                                                     | <input type="checkbox"/> Monetary Contribution<br><input type="checkbox"/> Nonmonetary Contribution<br><input type="checkbox"/> Independent Expenditure            |                                                               |                    |                                                     |                                    |
|           | <input type="checkbox"/> Support <input type="checkbox"/> Oppose                                    |                                                                                                                                                                    |                                                               |                    |                                                     |                                    |
|           |                                                                                                     | <input type="checkbox"/> Monetary Contribution<br><input type="checkbox"/> Nonmonetary Contribution<br><input type="checkbox"/> Independent Expenditure            |                                                               |                    |                                                     |                                    |
|           | <input type="checkbox"/> Support <input type="checkbox"/> Oppose                                    |                                                                                                                                                                    |                                                               |                    |                                                     |                                    |
|           |                                                                                                     | <input type="checkbox"/> Monetary Contribution<br><input type="checkbox"/> Nonmonetary Contribution<br><input type="checkbox"/> Independent Expenditure            |                                                               |                    |                                                     |                                    |
|           | <input type="checkbox"/> Support <input type="checkbox"/> Oppose                                    |                                                                                                                                                                    |                                                               |                    |                                                     |                                    |

**SUBTOTAL \$ 133.00**



**CALIFORNIA FORM 410**  
For Official Use Only

**Statement of Organization Recipient Committee**

Statement Type

|                                                                                                                                  |                                                    |                                                              |
|----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|--------------------------------------------------------------|
| <input type="checkbox"/> Initial                                                                                                 | <input type="checkbox"/> Amendment                 | <input checked="" type="checkbox"/> Termination – See Part 5 |
| <input checked="" type="checkbox"/> Not yet qualified or<br><input checked="" type="checkbox"/> Date qualification threshold met | Date qualification threshold met<br>____/____/____ | Date of termination<br>10 / 17 / 20                          |

Date Stamp  
**RECEIVED**  
OCT 29 2020  
CITY OF BERKELEY  
CITY CLERK DEPARTMENT

| 1. Committee Information                                                           |                                                           |                          |                                        | 2. Treasurer and Other Principal Officers               |                    |                          |                                        |
|------------------------------------------------------------------------------------|-----------------------------------------------------------|--------------------------|----------------------------------------|---------------------------------------------------------|--------------------|--------------------------|----------------------------------------|
| NAME OF COMMITTEE<br><b>Compassionate Bay</b>                                      |                                                           |                          |                                        | NAME OF TREASURER<br><b>Michael Goldberg</b>            |                    |                          |                                        |
| STREET ADDRESS (NO P.O. BOX)<br>[REDACTED]                                         |                                                           |                          |                                        | STREET ADDRESS (NO P.O. BOX)<br>[REDACTED]              |                    |                          |                                        |
| CITY<br><b>El Cerrito</b>                                                          | STATE<br><b>CA</b>                                        | ZIP CODE<br><b>94530</b> | AREA CODE/PHONE<br><b>707-287-0081</b> | CITY<br><b>El Cerrito</b>                               | STATE<br><b>CA</b> | ZIP CODE<br><b>94930</b> | AREA CODE/PHONE<br><b>707-287-0081</b> |
| NAME OF ASSISTANT TREASURER, IF ANY<br><b>n/a</b>                                  |                                                           |                          |                                        | STREET ADDRESS (NO P.O. BOX)                            |                    |                          |                                        |
| FULL MAILING ADDRESS (IF DIFFERENT)                                                |                                                           |                          |                                        | CITY STATE ZIP CODE AREA CODE/PHONE                     |                    |                          |                                        |
| E-MAIL ADDRESS (REQUIRED) / FAX (OPTIONAL)<br><b>michael@compassionatebay.org</b>  |                                                           |                          |                                        | CITY STATE ZIP CODE AREA CODE/PHONE                     |                    |                          |                                        |
| COUNTY OF DOMICILE<br><b>Contra Costa</b>                                          | JURISDICTION WHERE COMMITTEE IS ACTIVE<br><b>Berkeley</b> |                          |                                        | NAME OF PRINCIPAL OFFICER(S)<br><b>Michael Goldberg</b> |                    |                          |                                        |
| <i>Attach additional information on appropriately labeled continuation sheets.</i> |                                                           |                          |                                        | STREET ADDRESS (NO P.O. BOX)<br>[REDACTED]              |                    |                          |                                        |
|                                                                                    |                                                           |                          |                                        | CITY<br><b>El Cerrito</b>                               | STATE<br><b>CA</b> | ZIP CODE<br><b>94530</b> | AREA CODE/PHONE<br><b>707-287-0081</b> |

**3. Verification**

I have used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on Oct. 26, 2020 By [Signature]  
DATE SIGNATURE OF TREASURER OR ASSISTANT TREASURER

Executed on Oct. 26, 2020 By [Signature]  
DATE SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

Executed on \_\_\_\_\_ By \_\_\_\_\_  
DATE SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

Executed on \_\_\_\_\_ By \_\_\_\_\_  
DATE SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

**Statement of Organization  
Recipient Committee**

INSTRUCTIONS ON REVERSE

COMMITTEE NAME

**4. Type of Committee** (Continued)

**General Purpose Committee**

Not formed to support or oppose specific candidates or measures in a single election. Check only one box:

- CITY Committee       COUNTY Committee       STATE Committee

PROVIDE BRIEF DESCRIPTION OF ACTIVITY

Support or oppose candidate in the city of Berkeley.

**Sponsored Committee**

List additional sponsors on an attachment.

NAME OF SPONSOR

n/a

INDUSTRY GROUP OR AFFILIATION OF SPONSOR

STREET ADDRESS

NO. AND STREET

CITY

STATE

ZIP CODE

AREA CODE/PHONE

**Small Contributor Committee**

\_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Date qualified

**5. Termination Requirements**

By signing the verification, the treasurer, assistant treasurer and/or candidate, officeholder, or ponent certify that all of the following conditions have been met:

- This committee has ceased to receive contributions and make expenditures;
- This committee does not anticipate receiving contributions or making expenditures in the future;
- This committee has eliminated or has no intention or ability to discharge all debts, loans received, and other obligations;
- This committee has no surplus funds; and
- This committee has filed all campaign statements required by the Political Reform Act disclosing all reportable transactions.
  - There are restrictions on the disposition of surplus campaign funds held by elected officers who are leaving office and by defeated candidates. Refer to Government Code Section 89519.
  - Leftover funds of ballot measure committees may be used for political, legislative or governmental purposes under Government Code Sections 89511 - 89518, and are subject to Elections Code Section 18680 and FPPC Regulation 18521.5.

**Statement of Organization  
Recipient Committee**

INSTRUCTIONS ON REVERSE

Page 2

I.D. NUMBER

|                                     |             |
|-------------------------------------|-------------|
| COMMITTEE NAME<br>Compassionate Bay | I.D. NUMBER |
|-------------------------------------|-------------|

• All committees must list the financial institution where the campaign bank account is located.

|                                      |                        |                            |
|--------------------------------------|------------------------|----------------------------|
| NAME OF FINANCIAL INSTITUTION<br>n/a | AREA CODE/PHONE<br>n/a | BANK ACCOUNT NUMBER<br>n/a |
|--------------------------------------|------------------------|----------------------------|

|                                      |      |       |          |
|--------------------------------------|------|-------|----------|
| ADDRESS<br>All activity was in kind. | CITY | STATE | ZIP CODE |
|--------------------------------------|------|-------|----------|

**4. Type of Committee** Complete the applicable sections.

**Controlled Committee**

- List the name of each controlling officeholder, candidate, or state measure proponent. If candidate or officeholder controlled, also list the elective office sought or held, and district number, if any, and the year of the election.
- List the political party with which each officeholder or candidate is affiliated or check "nonpartisan." Stating "No party preference" is acceptable
- If this committee acts jointly with another controlled committee, list the name and identification number of the other controlled committee.

| NAME OF CANDIDATE/OFFICEHOLDER/STATE MEASURE PROPONENT | ELECTIVE OFFICE SOUGHT OR HELD<br>(INCLUDE DISTRICT NUMBER IF APPLICABLE) | YEAR OF ELECTION | PARTY CHECK ONE |          | (list political party below) |
|--------------------------------------------------------|---------------------------------------------------------------------------|------------------|-----------------|----------|------------------------------|
|                                                        |                                                                           |                  | Nonpartisan     | Partisan |                              |
|                                                        |                                                                           |                  | Nonpartisan     | Partisan |                              |

**Primarily Formed Committee**

Primarily formed to support or oppose specific candidates or measures in a single election. List below:

| CANDIDATE(S) NAME OR MEASURE(S) FULL TITLE (INCLUDE BALLOT NO. OR LETTER)<br>IF A RECALL, STATE "RECALL" IN FRONT OF THE OFFICEHOLDER'S NAME. | CANDIDATE(S) OFFICE SOUGHT OR HELD OR MEASURE(S) JURISDICTION<br>(INCLUDE DISTRICT NO., CITY OR COUNTY, AS APPLICABLE) | CHECK ONE |        |
|-----------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|-----------|--------|
|                                                                                                                                               |                                                                                                                        | SUPPORT   | OPPOSE |
|                                                                                                                                               |                                                                                                                        | SUPPORT   | OPPOSE |

**CITY OF BERKELEY**  
**CAMPAIGN STATEMENT FILING SCHEDULE**  
**NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION**

All candidates running for office in November 2020 and committees supporting or opposing local candidates or measures in the November 2020 election are required to file pre-election campaign statements and late contribution reports in addition to semi-annual statements. Open committees not supporting/opposing candidates or measures in the November 2020 election must only file semi-annual statements. (Government Code § 84200 et al. and B.M.C. 2.12)

**HOW TO FILE:** All committees that have raised or spent \$1,000 or more must file electronically. Committees under the \$1,000 threshold may file in hard copy. Contact the City Clerk Department for specific direction on how to file.

| <u>TYPE OF STATEMENT</u>                                         | <u>PERIOD COVERED<sup>1/</sup></u> | <u>FILING DEADLINE</u>                                                  | <u>WHO MUST FILE</u>                                                                                                                                                                                                            |
|------------------------------------------------------------------|------------------------------------|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Quarterly Statement for Ballot Measure Committees                | 1/1/20 – 3/31/20                   | 4/30/20                                                                 | Any committee that makes expenditures in excess of \$250 in support of or opposition to a measure (including during signature gathering) must file quarterly statements in addition to semi-annual and pre-election statements. |
| First Semi-Annual Statement                                      | 1/1/20 – 6/30/20                   | 7/31/20                                                                 | All officeholders, candidates and committees. Officeholders that do not have an open committee must file Form 470 by July 31.                                                                                                   |
| First Pre-Election Statement For November Election               | 7/1/20 – 9/19/20                   | 9/24/20                                                                 | Officeholders, candidates and committees supporting or opposing candidates or measures on the 11/3/20 ballot. <sup>3/</sup> Candidates without a committee, file Form 470 only.                                                 |
| Second Pre-Election Statement For November Election              | 9/20/20 – 10/17/20                 | 10/22/20                                                                | Officeholders, candidates and committees supporting or opposing candidates or measures on the 11/3/20 ballot. <sup>3/</sup>                                                                                                     |
| Late Contribution Reports (Form 497)                             | 8/5/20 – 11/3/20                   | 24 HOURS AFTER receipt of any contribution of \$1,000 or more           | Officeholders, candidates or committees with single source contributions of \$1000 or more during the reporting period.                                                                                                         |
|                                                                  | 10/18/20 – 11/3/20                 | 48 HOURS AFTER receipt of any contribution of \$100-\$999 <sup>4/</sup> | Officeholders, candidates or committees with single source contributions between \$100 and \$999 during the reporting period.                                                                                                   |
| Second Semi-Annual/Post-Election Statement For November Election | 10/18/20 – 12/31/20                | 2/1/21 <sup>2/</sup>                                                    | All committees, <u>whether or not they had any campaign activity</u> ; all officeholders and candidates who have raised or spent \$250 or more for the calendar year. <sup>3/</sup>                                             |

Committees making **Independent Expenditures** of \$1,000 or more to support or oppose candidates or other ballot measures file Form 496 within 24 hours between 8/5/20 – 11/3/20. Form 462 must also be filed within 10 days. In addition, three copies of the communication funded by the expenditure must be filed with City Clerk.

- <sup>1/</sup> The period covered by any statement begins on the day after the closing date of the last statement filed. The period covered begins on Jan. 1<sup>st</sup> if no previous statement filed.
- <sup>2/</sup> Deadlines are extended to the next business day if they fall on a Saturday, Sunday, or an official City holiday for all reports except any Late Independent Expenditure Reports and Late Contribution Reports due on the final Saturday or Sunday prior to Election Day.
- <sup>3/</sup> Candidates who have already filed a Form 470 for the first semi-annual period who do not receive or spend more than \$250 in a calendar year are not required to file another Form 470.
- <sup>4/</sup> The requirement does not exempt filers from the \$250 per candidate contribution limitation.

There is no provision in the law for extending a filing deadline. Late statements are subject to a \$10 per day late fine.



Fair Campaign Practices Commission

Date: February 18, 2021

To: Fair Campaign Practices Commission

From: Samuel Harvey, Secretary

Subject: Remitting public financing funds in the event of returned contributions.

At its November meeting, the Commission received a referral from the City Clerk Department regarding two committees which were participating the City's public financing program. Both committees had received matching funds for contributions which they had subsequently returned to their contributors.

BERA does not specifically identify a deadline for returning matching funds for contributions which a committee has returned to the contributor. Both staff and the Commission have agreed that it would be improper for a committee to spend matching funds for a returned contribution. As a result, the only applicable deadline for return of those funds is the 60-day deadline for return of all unspent public matching funds.

At its January meeting, the Commission dismissed the matter with regards to the two committees following the committees' return of all unspent public funds – including the funds received for the returned contributions – within 60 days after the election, as required by City law.

At its January meeting, the Commission discussed whether an alternative, earlier deadline should apply to remitting matching funds when the contribution upon which those matching funds are based has been returned to the contributor.

Under current law, a committee would be required to return all unspent matching funds – including funds received for subsequently returned contributions – by the 60 days after the date of the election. (BMC § 2.12.505.H.)

Staff has reviewed possible alternative rules for returning these funds and has provided the following possible regulation language to guide the Commission's discussion and action on this matter:

Proposed amendment to FCPC Regulation R2.12.501.1:

- (e) When a committee returns a contribution for which it has received Fair Elections funds, the committee shall not spend the Fair Elections funds received for the returned contribution and shall remit the matching Fair Elections funds to the City

February 18, 2021

Page 2 Remitting public financing funds in the event of returned contributions

within [REDACTED] calendar days and shall not submit any additional request for matching Fair Elections funds until such funds are remitted to the City.

OR

- (e) When a committee returns a contribution for which it has received Fair Elections funds, the committee shall not spend the Fair Elections funds received for the returned contribution and shall remit the matching Fair Elections funds no later than the deadline for repayment of unspent funds required by BMC section 2.12.505.H.



**Fair Campaign Practices Commission  
Open Government Commission**

Date: February 18, 2021

To: Fair Campaign Practices Commission and Open Government Commission

From: Samuel Harvey, Secretary

Subject: Election of Chair and Vice-Chair

The Chair and Vice-Chair are elected annually by a majority of the Commission to serve one-year terms. The City's Commissioner's Manual indicates that "annual election of commission officers should occur during the month of February." (Commissioner's Manual p. 27.)

No commissioner may serve as chair for more than two consecutive terms. There is no term limit for Vice-Chair. In February 2020, the Commission elected Brad Smith to serve as Chair and Jedidiah Tsang to serve as Vice-Chair. All members of the Commission are eligible for each position.

There is no specific process for nomination and election of officers. The Commissioner's Manual provides the following guidance:

If there are multiple nominees for chair or vice-chair, the commission may wish to use a process by which all nominations can be made prior to voting. Full discussion of nominations is recommended, including the ability of nominees to speak on behalf of their own candidacy.

Additional regulations for officer elections:

- Nominations for chair and vice-chair require a motion (with second).
- A commissioner may nominate himself or herself.
- Any member of the commission, regardless of length of tenure on the commission may be elected chair or vice-chair.
- There is no automatic succession from vice-chair to chair.
- Motions to nominate must be voted on in the public forum, and no secret ballots are allowed.
- A roll call vote is recommended for votes on commission officers, and is required if any commissioner requests a roll call vote.
- The results of the vote must be publicly announced and the vote recorded in the minutes (Resolution No. 60,531-N.S.).
- A commissioner may not be elected chair if he or she will not be able to finish the term due to the two-year limitation.

February 18, 2021

Page 2 Election of Chair and Vice-Chair

Staff recommend that the Commission discuss nominations for Chair and Vice-Chair and elect officers to both positions. Each position will require a separate motion to elect the officer.