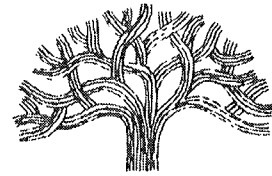


19 MAY 16 PM 3:42

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

REBECCA KAPLAN
Council President
atlarge@oaklandnet.com

(510) 238-7008
FAX: (510) 238-6910
TDD: (510) 839-6451

Date: May 14, 2019
To: Members of City Council and Members of the Public
From: Council President Kaplan
Re: Ordinance Amending The "Oakland Campaign Reform Act" By Amending Section 3.12.020 And Adding Sections 3.12.116 And 3.12.117 To Require Disclosure Of Principal Officers Of Non-Candidate Controlled Committees Required To File Campaign Statements In Oakland And Requiring That City Public Servants Also Disclose Solicitation Of Contributions From Any Person Or Entity Contracting Or Proposing To Contract With The City Of Oakland

Dear Colleagues on the City Council and Members of the Public,

RECOMMENDATION

Adopt An Ordinance Amending The "Oakland Campaign Reform Act" By Amending Section 3.12.020 And Adding Sections 3.12.116 And 3.12.117 To Require Disclosure Of Principal Officers Of Non-Candidate Controlled Committees Required To File Campaign Statements In Oakland And Requiring That City Public Servants Also Disclose Solicitation Of Contributions From Any Person Or Entity Contracting Or Proposing To Contract With The City Of Oakland

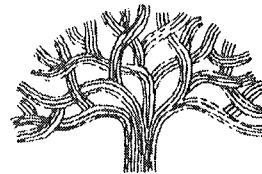
EXECUTIVE SUMMARY

The proposed amendments to the Oakland Campaign Reform Act (OCRA) modify Section 3.12.020 and add Sections 3.12.116 and 3.12.117. In Section 3.12.020 we add two more findings that speak to the importance knowing who are the donors who have financial interests with the city of Oakland and knowing who are the city officials who solicit contributions and this is to protect our democracy from the risk of secretive big money. We also state that there is a public interest in knowing who is paying for, and who is sending, advocacy and campaign communications.

By adding Sections 3.12.116, we request disclosure of principal officers of all non-candidate controlled committees, including ballot measure and independent expenditure committees and require that such disclosure must include the full name, street address, and telephone number of at least one principal officer, as well as all principal officers up to a total of five. This disclosure is made on the statement of organization (FPPC Form 410) by the filing deadlines required by the California Political Reform Act statute and regulations, or, if no Form 410 is required for that committee, the next required campaign statement. This action expands the number of officers that need to file compared to state regulations.

Item: _____
Rules Committee
May 30, 2019

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

REBECCA KAPLAN
Council President
atlarge@oaklandnet.com

(510) 238-7008
FAX: (510) 238-6910
TDD: (510) 839-6451

By adding Section, 3.12.117, public servants who file a Form 700 and who successfully solicit a contribution of \$5,000 or more per calendar year to any committee from any person who contracts or proposes to contract with the official's department, must disclose such solicitation within 30 days to the Public Ethics Commission. For clarification, the Mayor, members of the Council, and their senior staff members, the "department" is the entire City and all its departments for contracts for the procurement of services that are professional or consulting services that exceed ten thousand dollars (\$10,000.00) in the aggregate. Candidate filings already tell us who contributes to candidate campaigns and who benefits. City officials already use Form 803 to file behest payments with the state. This legislation creates that same parity by disclosing who seeks monies for non-candidate controlled committees.

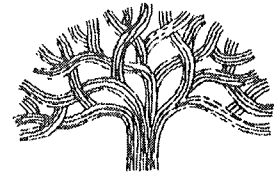
BACKGROUND/LEGISLATIVE HISTORY AND ANALYSIS

A November 2015 poll by the Associated Press showed that 87% of those polled believe that disclosing donors is effective at reducing the influence of money in politics. Americans may be on to something. In a 2016 study, *Money in Exile: Campaign Contributions and Committee Access*, a correlation was found between donations and U.S. Congressional committee membership behavior and that donations were used by corporations and Political Action Committees to acquire political access and favor and gave the appearance of corruption.

Our Supreme Court has also held on multiple occasions the value of disclosure. In *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), Justice Kennedy in his majority opinion held that disclosure requirements provide "citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters" and "enables the electorate to make informed decisions and give proper weight to different speakers and messages. In *Buckely v Valeo*, 424 U.S. 1 (1976), the Supreme Court majority opinion found that "disclosure requirements deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity."

Item: _____
Rules Committee
May 30, 2019

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

REBECCA KAPLAN
Council President
atlarge@oaklandnet.com

(510) 238-7008
FAX: (510) 238-6910
TDD: (510) 839-6451

This legislation increases the transparency of non-candidate controlled committees and of the activities of city officials. By requesting more principal officers be listed with the PEC, we can better ensure that the public knows the identity of individuals involved with strategic decision and their nexus, if any, to city governance. By requesting that city officials file attempts at solicitations for ballot measures, the public can better know the relationships of city officials to donors and make more informed decisions as voters based on this new information. For more analysis see attached PEC Staff Analysis of Proposed Amendments to the Oakland Campaign Reform Act.

PUBLIC OUTREACH/INTEREST

On May 6, 2019, this legislation was heard before the Public Ethics Commission where it had been agendized and materials were available 10 days prior. The Commission unanimously approved the legislation contingent on a few changes with Ethics staff which are reflected in the version before you.

COORDINATION

The proposed amendments are a product of coordination among the Public Ethics Commission, Commission staff, the City Attorney's office, members of the public, and Council President Kaplan..

COST SUMMARY/IMPLICATIONS

The ordinance expands the enforcement provisions of OCRA, resulting in broader capabilities. Please refer to the PEC memo. There are some minor costs associated with training, document creation, and filing of these new requirements that amount to a 5-10% FTE for the PEC staff.

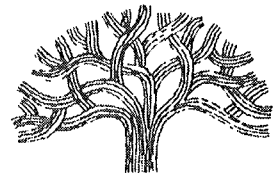
SUSTAINABLE OPPORTUNITIES

Economic: These amendments aim to ensure OCRA is clear and enforceable so that the regulated community can understand and comply with the law. Clear language promotes compliance, which in turn helps enhance public trust in the campaign finance system and the electoral process. Strengthening compliance and performance in this area could have the effect of increasing trust among citizens and government, thereby bolstering the City's economic viability.

Environmental: There are no environmental opportunities.

Item: _____
Rules Committee
May 30, 2019

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

REBECCA KAPLAN
Council President
atlarge@oaklandnet.com

(510) 238-7008
FAX: (510) 238-6910
TDD: (510) 839-6451

Social Equity. Social equity depends on a political and governmental system that ensures a fair and equal opportunity for all individuals and interest groups to participate meaningfully in the governmental process. Clear and enforceable local campaign finance laws, combined with the authority to properly enforce government ethics laws, help to ensure that all participants know the rules, understand how to play by them, and be held accountable if they choose not to comply.

For questions regarding this report, please contact Bobbi Lopez @ 510.238.7082.

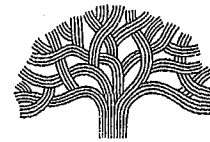
Sincerely,

A handwritten signature in cursive script, appearing to read "Rebecca Kaplan".

Rebecca Kaplan
Oakland City Councilmember At Large

Item: _____
Rules Committee
May 30, 2019

CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • SUITE 104 • OAKLAND, CALIFORNIA 94612

Public Ethics Commission
May 16, 2019

(510) 238-3593
FAX (510) 238-3315
TDD (510) 238-3254

The Honorable Rebecca Kaplan
President, Oakland City Council
1 Frank Ogawa Plaza
Oakland, CA 94612

RE: Public Ethics Commission Support for Amendments to the Oakland Campaign Reform Act to add OMC Sections 3.12.116 and 3.12.117

Dear Council President Kaplan,

The Public Ethics Commission (Commission) **supports** your proposed amendments to the Oakland Campaign Reform Act to add disclosure requirements intended to illuminate the names of more controlling officers of certain campaign committees such as ballot measure and independent expenditure committees, and to disclose solicitations made by City officials on behalf of such committees to contributors who also happen to be contracting with the City.

We appreciate your willingness to accept Commission staff's proposed amendments to clarify terms, align the reporting to existing campaign filing processes, and ensure appropriate thresholds and scope for the new requirements.

We further note that the addition of the second disclosure provision (disclosure of contribution solicitations) will require Commission staff resources to amend ethics training materials, educate filers, create a filing process and communicate it out to Form 700 filers, and ensure compliance with the new requirement. While the provision may result in only a small number of actual disclosure filings by City employees, staff will need to make sure all Form 700 filers understand the additional disclosure requirement and can submit the necessary information that is then made available to the public. This new duty is estimated to require roughly 5-10% of one FTE (full-time equivalent) staff position, with approximately 10% of one FTE needed in the first year for creation of the filing process and about 3-5% of a position ongoing.

Again, the Public Ethics Commission supports your policy changes, and, if these changes are approved by City Council, I respectfully request your consideration of a budget augmentation to support the Commission's new disclosure duties.

Sincerely,

A handwritten signature in black ink, appearing to read "Whitney Barazoto".

Whitney Barazoto
Executive Director

On behalf of the Public Ethics Commission based on discussion and action at its public meeting on May 6, 2019.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

19 MAY 17 AM 10:18

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER KAPLAN

ORDINANCE AMENDING THE "OAKLAND CAMPAIGN REFORM ACT" BY AMENDING SECTION 3.12.020 AND ADDING SECTIONS 3.12.116 AND 3.12.117 TO REQUIRE DISCLOSURE OF THE PRINCIPAL OFFICERS OF NON-CANDIDATE CONTROLLED COMMITTEES REQUIRED TO FILE CAMPAIGN STATEMENTS IN OAKLAND AND REQUIRING THAT CITY PUBLIC SERVANTS ALSO DISCLOSE SOLICITATION OF CONTRIBUTIONS FROM ANY PERSON OR ENTITY CONTRACTING OR PROPOSING TO CONTRACT WITH THE CITY OF OAKLAND

WHEREAS, City government integrity depends upon an election process that is transparent and where political contributions do not unduly influence decisions made by elected officials on matters pertaining to city governance; and

WHEREAS, in a 2016 study, *Money in Exile: Campaign Contributions and Committee Access*, a correlation was found between donations and U.S. Congressional committee membership behavior and that donations were used by corporations and Political Action Committees to acquire political access and favor and gave the appearance of corruption; and

WHEREAS, in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), the Supreme Court upheld that financial limitations on independent expenditures were unconstitutional thereby expanding the ability of wealthy donors to contribute unlimited amounts of monies towards independent expenditures; and

WHEREAS, Justice Kennedy in his majority opinion in *Citizens United* held that disclosure requirements provide "citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters" and "enables the electorate to make informed decisions and give proper weight to different speakers and messages"; and

WHEREAS, a November 2015 poll by the Associated Press showed that 87% of those polled believe that disclosing donors is effective at reducing the influence of money in politics; and

WHEREAS, the California Political Reform Act ("CPRA") established reporting requirements on candidates and committees, including but not limited to required reporting of all campaign contributions and expenditures on state campaign forms and restrictions on the receipt, maintenance, use, and distribution of campaign funds (Government Code Section 81000 et seq.); and

WHEREAS, a Charter City has the constitutional authority to enact local regulations to supplement state ethics laws such as CPRA under the home rule and municipal affairs doctrines; and

WHEREAS, the City of Oakland, as a charter city, passed the Oakland Campaign Reform Act (OCRA) in 1993 with the goal of "reducing the influence of money in local politics" and has amended OCRA on various occasions to strengthen disclosure requirements including in 2016 with Ordinance No. 13399 that required disclosure of the top donors for independent expenditure mailers and television ads; and

WHEREAS, the explicit purpose of the OCRA, according to Section 3.12.030, was to "reduce the influence of large contributors with a specific financial stake in matters under consideration by the City" and "to help restore public trust in governmental and electoral institutions"; and

WHEREAS, the Oakland City Council finds that these amendments further the purposes of OCRA; and

WHEREAS, The City Council of the City of Oakland, in order to ensure clear expectations pertaining to the financing of campaign measures and independent expenditure committees, does hereby amend Chapter 3.12 of the Oakland Municipal Code, the Oakland Campaign Reform Act (hereinafter referred to as the "Act") by modifying Section 3.12.020 and adding Sections 3.12.116 and 3.12.117 as set forth below (chapter and section numbers and titles are indicated in bold type; additions are indicated by underscoring; portions of the regulations not cited or not shown in underscoring or strikethrough type are unchanged;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Chapter 3.12 - THE CITY OF OAKLAND CAMPAIGN REFORM ACT

Article I. - Findings and Purpose

3.12.010-Title.

This chapter shall be known as the city of Oakland Campaign Reform Act, hereinafter "the Act."

(Ord. 12158 (part), 1999)

3.12.020 - Findings and declarations.

The Oakland City Council finds and declares each of the following:

A. Monetary contributions to political campaigns are a legitimate form of participation in our political process, but the financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.

B. The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters under consideration by City government. This has caused the public perception that votes are being improperly influenced by monetary contributions. This perception is undermining the credibility and integrity of the governmental process.

C. Candidates are raising less money in small contributions and more money in large individual and organizational contributions. This has created the public impression that the small contributor has an insignificant role to play in political campaigns.

D. High campaign costs are forcing elected City Officials to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting elected City Officials from urgent governmental matters.

E. Elected City Officials are responding to high campaign costs by raising larger amounts of money. This fundraising distracts them from important public matters, encourages contributions, which may have a corrupting influence, and gives incumbents an overwhelming and patently unfair fundraising advantage over potential challengers.

F. Disclosure of donors who have financial interests with the city of Oakland and also of city officials who solicit contributions safeguards against potential conflicts of interest.

G. For transparency, and to protect our democracy, including from the risk of secretive big money, it is important that the public have a right to know who is paying for, and who is sending, advocacy and campaign communications.

F. H. The integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are all diminishing.

G. I. This Act shall be liberally construed and vigorously enforced to ensure its purposes are fulfilled.

3.12.116 –Disclosure of principal officers of all non-candidate controlled committees, including ballot measure and independent expenditure committees

All non-candidate controlled committees, including ballot measure committees and independent expenditure committees, required to file campaign statements in the City of Oakland, must disclose the principal officers of the committee. Such disclosure must include the full name, street address, and telephone number of at least one principal officer, as well as all principal officers up to a total of five. This disclosure shall be made on the statement of organization (FPPC Form 410) by the filing deadlines required by the California Political Reform Act statute and regulations, or, if no Form 410 is required for that committee, the next required campaign statement. Such information shall be filed with the Public Ethics Commission and made available to the public.

3.12.117 – Reporting by city officials who solicit campaign contributions from persons contracting or proposing to contract with the city

A. Any public servant, as defined by Section 2.25.030(D), who is required to file a statement of economic interests (Form 700) and who successfully solicits a contribution of \$5,000 or more per calendar year to any committee from any person who contracts or proposes to contract with the official's department during the contractor prohibition time period specified in Section 3.12.140, must disclose such solicitation within 30 days of the solicitation to the Public Ethics Commission using a process provided by the Public Ethics Commission.

1. Mayor, Members of the Council, and their Senior Staff Members. For purposes of this section, the "department" of the Mayor, member of the Council, or senior staff member to either the Mayor or member of Council shall be the City, and the disclosure requirement shall apply when the solicitation is made to a person contracting or proposing to contract with any City department, City agency, or public servant, as defined by Section 2.25.030(D);

a. For purposes of this section, a "senior staff member" to either the Mayor or a member of the Council means an individual employed in any of the following positions: chief of staff, deputy chief of staff, communications or other director, legislative or policy aide, or any other position in the Mayor's or Council Member's office who is required to file a Form 700.

2. For an official's department, this reporting provision will be required for contracts for the procurement of services that are professional or consulting services that exceed ten thousand dollars (\$10,000.00) in the aggregate.

SECTION 2 Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

SECTION 3. Effective Date. This ordinance shall become effective commencing with the next required disclosure filing date following the date of adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND
PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

ORDINANCE AMENDING THE "OAKLAND CAMPAIGN REFORM ACT" BY AMENDING SECTION 3.12.020 AND ADDING SECTIONS 3.12.116 AND 3.12.117 TO REQUIRE DISCLOSURE OF THE PRINCIPAL OFFICERS OF NON-CANDIDATE CONTROLLED COMMITTEES REQUIRED TO FILE CAMPAIGN STATEMENTS IN OAKLAND AND REQUIRING THAT CITY PUBLIC SERVANTS ALSO DISCLOSE SOLICITATION OF CONTRIBUTIONS FROM ANY PERSON OR ENTITY CONTRACTING OR PROPOSING TO CONTRACT WITH THE CITY OF OAKLAND

All non-candidate controlled committees required to file campaign statements in the City of Oakland must disclose the name, address, and telephone number of all principal officers of the Committee up to a total of five. Any city of Oakland public servant, as defined by Section 2.25.030(D), who successfully solicits a contribution to any committee from any person contracting or proposing to contract with the city of Oakland during the contractor prohibition period specified in Section 3.12.140 must disclose such solicitation using a process provided by the Public Ethics Commission.