

Fair Campaign Practices Commission

AGENDA FOR FAIR CAMPAIGN PRACTICES COMMISSION

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) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

Civic Center
2180 Milvia St.
Cypress Room (1st Floor)

Regular Meeting
March 21, 2019
7:00 p.m.

Secretary: Emmanuelle Soichet, Deputy City Attorney

The Commission may act on any item on this agenda

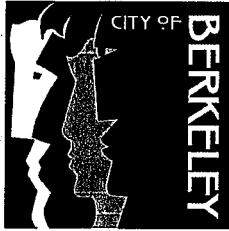
1. Call to Order 7:00 p.m.
2. Roll Call.
3. Public Comment. *Comments on subjects not on the agenda that are within the Commission's purview are heard at the beginning of meeting. Speakers may comment on agenda items when the Commission hears those items.*
4. Reports.
 - a. Report from Chair.
 - b. Report from Staff.
5. Approval of minutes for the November 28, 2018 special meeting.
6. Complaint of alleged violation of the Berkeley Election Reform Act by *Droste for City Council 2018* submitted by H. Steel; discussion and possible action.
7. Report from the Ad Hoc Subcommittee on Independent Expenditures; discussion and possible action.
8. Annual election of Chair and Vice Chair; discussion and possible action.
9. Commission 2019 regular meeting schedule; discussion and possible action.
10. Information report regarding new abridged Commissioners' Manual.
11. Adjournment.

Communications

- Thomas Hodgman email dated Jan. 8, 2019

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., 4th Fl., Berkeley, CA.



Fair Campaign Practices Commission

DRAFT MINUTES

North Berkeley Senior Center
2180 Milvia St.
Cypress Room (1st Floor)

Special Meeting
November 28, 2018
7:00 p.m.

Members Present: Brad Smith, Dean Metzger, Mark McLean, Brian Tsui, Emma Soichet

Members Absent: Greg Harper (leave of absence), Daniel Saver; Patrick O'Donnell

Also Present: Farimah Brown, Secretary/ City Attorney
Leslie Rome, Assistant Management Analyst, City Clerk's Office

1. **Call to Order**

Chair called the meeting to order at 7:17 p.m.

2. **Roll Call**

Roll call taken.

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

No public comment on matters not on agenda. 1 member of the public in attendance.

4. **Approval of minutes for the October 18, 2018 regular meeting**

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

*Motion to approve minutes (M/S/C: Smith/Soichet; Ayes: Metzger, McLean, Tsui
Noes: None; Abstain: None; Absent: Harper (leave of absence), Saver; O'Donnell*

5. **Approval of minutes for the October 25, 2018 special meeting**

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

*Motion to approve minutes (M/S/C: Smith/McLean; Ayes: Metzger, Soichet, Tsui
Noes: None; Abstain: None; Absent: Harper (leave of absence), Saver; O'Donnell*

6. **Public Campaign Financing Program certification applications and request for matching funds**

Motion to approve 6:1 public matching funds for candidate Cecilia Rosales in an amount not to exceed \$2,400.00. (M/S/C: Metzger/Soichet; Ayes: Smith, McLean, Tsui; Noes: None; Abstain: None; Absent: Harper (leave of absence), Saver; O'Donnell

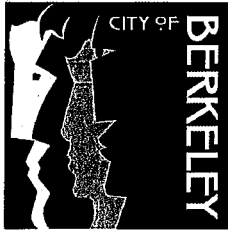
Motion to approve 6:1 public matching funds for candidate Gregory Magofna in an amount not to exceed \$3,149.94. (M/S/C: Metzger/Tsui; Ayes: Smith, McLean, Soichet; Noes: None; Abstain: None; Absent: Harper (leave of absence), Saver; O'Donnell

Motion to approve 6:1 public matching funds for candidate Rigel Robinson in an amount not to exceed \$1,530.00. (M/S/C: Metzger/Tsui; Ayes: Smith, McLean, Soichet; Noes: None; Abstain: None; Absent: Harper (leave of absence), Saver; O'Donnell

7. Adjournment.

Motion to adjourn (M/S/C: McLean/Soichet; Ayes: Smith, Metzger, Tsui; Noes: None; Abstain: None; Absent: Harper (leave of absence), Saver; O'Donnell

The meeting adjourned at 7:25 p.m.



Fair Campaign Practices Commission

DATE: March 21, 2019

TO: FAIR CAMPAIGN PRACTICES COMMISSION

FROM: MARIAM MORLEY, Renne Public Law Group,
on behalf of Farimah Brown, City Attorney¹

SUBJECT: Staff Report Regarding Complaint of Alleged BERA Violations by
Droste for City Council 2018 submitted by Harriet Steele

Introduction

At its last regular meeting on October 18, 2018 the Berkeley Fair Campaign Practices Commission ("the Commission") received a complaint from Harriet Steele ("the Complainant") alleging that *Droste for City Council 2018* ("the Committee") had violated the Berkeley Election Reform Act ("BERA"). (A copy of the staff report regarding the Complaint, with all of its attachments, is attached to this memorandum as **Attachment A**). In response to the Complaint the Commission adopted a motion finding probable cause that the Committee's use of commercial space violated Sections 2.12.500.A.7 and 2.12.440 of the Berkeley Municipal Code. It also passed a motion finding a lack of probable cause that the donations of food and beverages as nonmonetary contributions to the Committee violated BERA. (The minutes of the Commission's October 18, 2018 meeting are attached to this memorandum as **Attachment B**.) After its finding of probable cause, the Commission considered, but did not pass, two motions. The first was a motion to dismiss the Complaint and take no further action. The second was a motion to request that the Secretary to the Commission engage in settlement

¹ Because Deputy City Attorney Emma Soichet, the new Secretary to the FCPC, was a member of the FCPC on October 18, 2018 when it initially considered the complaint against the Droste campaign, the City Attorney, in an abundance of caution and to avoid confusion, has asked Renne Public Law Group to assist the FCPC with the Droste matter.

negotiations with the Committee. The Commission then adopted a motion to place resolution of the Complaint on the agenda for its next regular meeting. (**Attachment B**)

The City Attorney has notified the Committee and the Complainant of: 1) the actions taken by the Commission at its October 18, 2018 meeting; 2) placement of resolution of the Complaint on the Commission's agenda for its March 21, 2018 meeting; and 3) the deadline for providing the Commission with further information relevant to the Complaint.

Proceedings After a Determination of Probable Cause

The Commission's Procedures dictate the actions that the Commission may take after it makes a finding of probable cause that a violation of BERA has occurred. The Commission may:

- a. Dismiss the compliant and take no further action.
- b. Request that the Secretary conduct further investigation.
- c. Require the timely filing of campaign statements and/or amendments to campaign statements.
- d. Invite the respondents to participate in settlement negotiations.
- e. Schedule and conduct a hearing pursuant to Section 2.12.330 of BERA.
- f. Ask the City Attorney or the District Attorney to seek legal remedies.
- g. Seek any other remedy within its authority

Procedures for the FCPC, Section VI.C.2.

When determining which of these actions would be appropriate, the Commission may consider the following factors:

- 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.

Procedures for the FCPC, Section VI.C.1.

With respect to factors "a" and "b", staff is conducting research to determine: 1) whether the Commission has encountered situations similar to the probable violation here, and, if so, what actions the Commission took in those instances; and 2) the extent of Ms.

Droste's Ms. Perry's and Ms. Birnbach's experience in campaign reporting; and 3) whether Ms. Droste, Ms. Perry or Ms. Birnbach have any history of campaign violations. Staff will provide the results of that research to the Commission at the March 21 meeting.

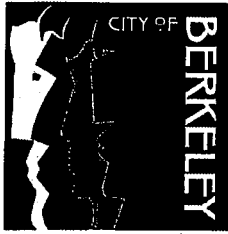
The staff report regarding this Complaint contains information relevant to factors "b," "c," and "d." It describes the Committee's good faith efforts to correct reporting deficiencies (**Attachment A, pp. 1-3**). It also evidences the absence of an intent to conceal, deceive or mislead when it states that "Ms. Birnbach took prompt, voluntary action once she was notified of the potential violation to pay for the use of the space and amend the Committee's filing to properly disclose the use of the space and payment." (**Attachment A, p. 6**) Finally, the staff report reveals that the potential violation does not appear to be deliberate. The Committee's Assistant Treasurer reported that the Committee relied on the California Fair Political Practices Commission's informational material for state candidates for its erroneous belief that it did not need to report its use of the commercial space. (**Attachment A, p. 2**)

As to factor "e," the staff report regarding the Complaint contains no evidence that the probable violation had any effect upon the election or the administration of BERA. The potentially unlawful contribution of the use of commercial space was valued at only \$100. (**Attachment A, p. 3**)

Attachments

A. Copy of October 18, 2018 Staff Report Regarding Complaint of Alleged BERA Violations by *Droste for City Council 2018* submitted by Harriet Steele.

B. Copy of Minutes of the October 18, 2018 regular meeting of the Fair Campaign Practices Commission.



Fair Campaign Practices Commission

DATE: October 18, 2018
TO: FAIR CAMPAIGN PRACTICES COMMISSION
FROM: JESSICA MAR, Commission Secretary/Deputy City Attorney *10/18/18*
SUBJECT: Staff Report Regarding Complaint of Alleged BERA Violations by Droste for City Council 2018 submitted by Harriet Steele

Introduction

On October 2, 2018 the Secretary received a complaint (“Complaint”) submitted by Harriet Steel (“Complainant”).¹ (Att. 1).

The Complaint alleges that Candidate Lori Droste, a candidate participating in Berkeley’s Public Financing Program, held a campaign kickoff event in a retail space near Ashby and College. The Complaint alleges that Candidate Droste verbally “thanked Kevin Gordon for donating the space, Le Med for donating the food, Fieldworks for donating the beer and two individuals for wine and cheese.” (Att. 1)

The Complaint alleges that these donations constituted contributions from a prohibited business source and points out that a person who owns a business can only make contributions from his or her personal account. The Complaint also references that Candidate Droste is participating in public financing and that it was unclear whether any of the donations fell within the public financing contribution limits.

In accordance with Sections V.B. and D of the FCPC Procedures, the Secretary reviewed the documentation submitted with the Complaint, provided the Complaint and requested responses from *Droste for City Council 2018* (the “Committee”), and reviewed the relevant campaign disclosure statements. (Att. 2).

The Treasurer for the Committee, Kerry Birnbach, provided information that a nonmonetary contribution from Garbis Bagdasarian was incorrectly entered as a business contribution from Mediteranee III. She confirmed that payment for food purchased from Mediteranee III for the kickoff was disclosed on the filing. The Committee filed an amended Form 460 to correct this filing error on October 5, 2018.

¹ Complainant Steel sent her Complaint to the home address of one of the commissioners. Complaints for the Fair Campaign Practices Commission should be sent to the Commission Secretary. FCPC Procedures V.A.1.

FCPC

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Ms. Birnbach confirmed that all of the other food donations were personal nonmonetary contributions and had been accurately disclosed on the Committee's Form 460.

Ms. Birnbach stated that the Committee believed that the use of the office space for the campaign kickoff event was an office fundraiser, which the Committee believed did not need to be reported. Ms. Birnbach referenced Fair Political Practices Commission Manual 1- Information for State Candidates, Their Controlled Committees, and Primarily Formed Committees for State Candidates," Chapter 4, which states "Home/Office Fundraisers (Other than a Lobbyist or Lobbying Firm) If a person, other than a lobbyist (or a cohabitant of a lobbyist) or lobbying firm, holds a fundraiser or other campaign event in his or her home or office, the costs incurred by the occupant of the home or office need not be reported as long as the total cost of the event is \$500 or less. However, if someone else donates food, beverages, or anything else of value to the event, the fair market value of those donated goods is a nonmonetary contribution." FPPC Manual 1, Chapter 4.4.²

The Secretary reminded the Committee that Berkeley candidates are subject to the Berkeley Election Reform Act, which can place additional requirements on Berkeley committees beyond the requirements of state law.

Ms. Birnbach responded promptly, volunteering that the Committee would take corrective action to pay Gordon Commercial Properties, LLC for the use of the space and sent documentation of payment to the Secretary. Ms. Birnbach also requested that the following statement be provided to the Commission:

"On 10/12/2018 Droste for City Council 2018 sent a payment of \$100.00 to Gordon Commercial Properties, LLC for use of their building for Lori's campaign kickoff space. The campaign will include this payment in a form 460 Amendment."

On October 14, 2018, the Committee filed an amended Form 460 disclosing this expense and confirmed that the payment of the accrued expense for use of the space would be included on the Committee's next Form 460 covering the period when payment was made.

The investigation did not find evidence that the Committee accepted food or beverage donations from business entities in violation of the source prohibition on contributions in BMC § 2.12.440. The Committee promptly amended its campaign disclosure to correct the filing error that indicated a nonmonetary contribution from business entity Mediteranee III and clarified that the Committee purchased food from the business.

With regard to the use of the retail space for the campaign kickoff event, acceptance of the use of the retail space from Gordon Commercial Properties, LLC without payment appears to constitute

² Although Ms. Birnbach referenced the FPPC Manual that applies to *state* committees, FPPC Manual 2- "Local Candidates, Superior Court Judges, Their Controlled Committees, and Primarily Formed Committees for Local Candidates," Chapter 3.3, which is written for local candidates, contains the same language.

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a violation of the source prohibition in BMC 2.12.440 and of the restrictions on the contribution type and amount for public financing candidates in BMC 2.12.500. When this was brought to the Committee's attention, the Committee took prompt voluntary corrective action to remedy the potential violation.

As discussed in more detail below, pursuant to the Commission's Procedures, after the presentation of the Secretary's report, the Commission may move to dismiss the matter by majority vote and proceed no further, or make a determination that probable cause exists to believe that BERA has been violated. Procedures section VI.B.

Summary of Evidence

Candidate Droste held a campaign kickoff event in a retail space near Ashby and College in a property owned by Gordon Commercial Properties, LLC.

The Committee disclosed nonmonetary contributions of "kickoff supplies" as individual nonmonetary contributions on Schedule C of its Form 460 covering the period July 1- September 22, 2018, filed on September 22, 2018 ("September 22 Form 460"). (**Attachment 3**.)

The Committee's Form 460 filed on September 22, 2018, covering the period from July 1, 2018 to September 22, 2018 also included one contribution that on the face of the filing appears to be from a prohibited source. The statement lists a contribution on Schedule C from 'Mediterranee III' received on August 19, 2018, which the filing identifies under the "Other" contributor code. (**Attachment 3**.)

The Committee explained that it had purchased \$97.49 worth of food from 'Mediterranee III' for the event, which was disclosed on Schedule E.

On October 5, 2018, the Committee amended its Form 460 to include a \$50.00 nonmonetary contribution for kickoff supplies on August 19, 2018 from Garbis Bagdasarian, an individual who is the owner of Mediterranean III. (**Attachment 4**.)

On October 12, 2018, the Committee sent a payment of \$100.00 to Gordon Commercial Properties, LLC for use of their building for Candidate Droste's campaign kickoff event.

On October 14, 2018, the Committee filed an amended Form 460 disclosing the \$100.00 accrued expense to Gordon Commercial Properties for event space incurred for the period from July 1- September 22, 2018. (**Attachment 5**.) Ms. Birnbach sent a copy of the check for payment to Gordon Commercial Properties, LLC and confirmed that the Committee will disclose the \$100.00 payment made on October 12, 2018 on Schedule E as an expenditure for the Committee's next Form 460. (**Attachment 6**.)

Discussion

1. Applicable Law

a. Contribution defined under BERA

Under BERA a contribution is defined as “a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or voter approval of one or more measures.....The term “contribution” shall not include... the use of personal or real property where the value of such use is not in excess of fifty dollars.” BMC 2.12.100.

b. Contributions from Business Entities Prohibited

BERA prohibits any contribution from business entities, “No proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, including non-profit corporations, or labor union shall make a contribution to any candidate or committee (supporting or opposing any candidate) directly or indirectly, and no campaign treasurer (of any such committee) shall solicit or accept such contribution.” BMC § 2.12.440.

2. Public Financing Program Requirements

a. The Public Financing Contribution Limits: Amount and Type of Acceptable Contributions

Candidates participating in the City’s Public Financing Program are subject to a \$50.00 aggregate value of contribution from any one individual. BMC § 2.12.500.A.7.

Additionally, participating candidates may only accept “qualified contributions, contributions not greater than fifty dollars (\$50) made by a natural person non-resident of Berkeley, or non-monetary contributions with a fair market value not greater than fifty dollars (\$50).” *Id.*

Public financing candidates may only accept contributions of up to \$50 from natural persons (i.e., individuals). (BMC § 2.12.500.A.7.) To be eligible to be certified as a public financing candidate, a candidate must “Not accept contributions in connection with the election for which Fair Elections funds are sought other than qualified contributions, contributions not greater than fifty dollars (\$50) made by a natural person non-resident of Berkeley, or non-monetary contributions with a fair market value not greater than fifty dollars (\$50). The aggregate value of all contributions from any individual must not be greater than fifty dollars (\$50).”

3. Discussion and Analysis

BERA prohibits any contribution from business entities (BMC § 2.12.440).

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Under BERA, use of the retail space without payment constitutes a contribution from Gordon Properties, LLC, the owner of the space. BMC § 2.12.100. While “use of personal or real property where the value of such use is not in excess of fifty dollars” is excluded under the definition of a contribution under BERA, here the use was from a prohibited source and was estimated at a value of \$100.00. BMC §§ 2.12.100, 2.12.440.

Candidate Droste, as a candidate participating in Berkeley’s Public Financing program, agreed to be bound by additional requirements under the Berkeley Fair Elections Act of 2016 in order to be eligible for Fair Elections funds from the City.

Candidates participating in public financing agree to a \$50.00 contribution aggregate limit from any one individual. BMC § 2.12.500.A.7. Participating candidates may also only accept the following types of contributions:

1. Qualified contributions,
2. Contributions not greater than fifty (\$50) made by a natural person non-resident of Berkeley, or
3. Non-monetary contributions with a fair market value not greater than fifty dollars (\$50).

BMC § 2.12.500.A.7.

When Candidate Droste accepted the use of retail space owned by Gordon Properties, LLC without payment this appeared to violate the prohibition on business entity contributions in BMC § 2.12.440, as well as the restrictions on the types of contributions public financing candidates may accept, as it did not fall within one of the three categories of acceptable contributions for public financing participating candidates in BMC § 2.12.500.A.7.

For the reasons identified above, there appears to be sufficient circumstances for a reasonable basis on which to believe that a violation of BERA has occurred for the use of the retail space.

Disposition of Potential Violations

1. Probable Cause Determination

After presentation of this report, the Commission may dismiss the matter 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. Procedures of the FCPC section VI.B.1. Alternately, the Commission may determine that probable cause exists to believe that the BERA has been violated. *Id.* at Section VI.B.2. 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. *Id.*

If the Commission determines there is probable cause for believing the committee violated BMC section 2.12.500, the Commission shall consider what action to take and may consider the factors identified in Section VI.C.1 of the Procedures.

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Based on the facts identified above, the evidence does not appear to support a finding that Candidate Droste accepted donations of food and beverages for the campaign kickoff event from business entities. Ms. Birnbach stated that the Committee made a filing error when it disclosed a \$50.00 contribution on Schedule C from 'Mediterranee III' received on August 19, 2018, which the filing identifies under the "Other" contributor code. The Committee explained that it had purchased \$97.49 worth of food from 'Mediterranee III' for the event, which was disclosed on Schedule E. On October 5, 2018, the Committee amended its Form 460 to include a \$50.00 nonmonetary contribution for kickoff supplies on August 19, 2018 from Garbis Bagdasarian, an individual who is the owner of Mediterranean III. Based on these facts, there does not appear sufficient evidence that a violation of BERA occurred when the Committee accepted the food and beverage nonmonetary contributions.

However, based on the facts above, there does appear to be sufficient evidence for a reasonable basis on which to believe that a violation of BERA Sections 2.12.500.A.7 and 2.12.440 occurred for the use of the retail space. As noted above, Ms. Birnbach took prompt, voluntary action once she was notified of the potential violation to pay for the use of the space and amend the Committee's filings to properly disclose the use of the space and payment. The payment will be disclosed as an expenditure made on October 12, 2018 on Schedule E of the Committee's Second Pre-Election Campaign statement due on October 25, 2018.

2. Proceeding After a Determination of Probable Cause

Following a determination of probable cause, the Commission may take any of the following courses of action:

- a. Dismiss the complaint and take no further action;
- b. Request the Secretary conduct further investigation;
- c. Require the timely filing of campaign statements and/or amendments to campaign statements;
- d. Invite the respondents to participate in settlement negotiations.
- e. Schedule and conduct a hearing pursuant to Section 2.12.230 of BERA.³
- f. Ask the City Attorney or the District Attorney to seek legal remedies.
- g. Seek any other remedy within its authority.

Procedures for the FCPC section VI.C.2.

Attachments

1. Copy of Complaint submitted by Harriet Steel, received October 2, 2018
2. Letter from FCPC Secretary to *Droste for City Council 2018* regarding complaint, dated October 4, 2018.
3. Excerpts of *Droste for City Council 2018*, Form 460 campaign statement filed September 22, 2018, covering the period from July 1, 2018 through September 22, 2018.

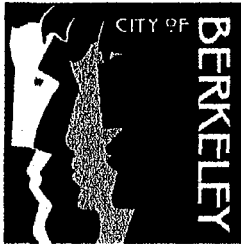
³ If the Commission holds a hearing pursuant to BMC § 2.12.230, and determines that there is a violation, the violation penalties under BMC 2.12.231 would be available remedies. Because this matter potentially involves in violation of the Fair Elections Act of 2016, the Fair Elections Act penalties in BMC § 2.12.550 may be available in addition to the remedies in BMC § 2.12.231.

FCPC

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4. Excerpts of *Droste for City Council 2018*, Form 460 campaign statement filed October 5, 2018, covering the period from July 1, 2018 through September 22, 2018.
5. Excerpts of *Droste for City Council 2018*, Form 460 campaign statement filed October 14, 2018, covering the period from July 1, 2018 through September 22, 2018.
6. Copy of Check for payment for use of space to Gordon Commercial Properties, LLC submitted by Kerry Birnbach, dated October 12, 2018



Fair Campaign Practices Commission

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

Received
OCT 02 2018
City Attorney

Full Name: Harriet Steel
Date: September 13, 2018
Address: _____
E-mail (optional but suggested): harriet.steele10@gmail.com
Phone (optional but suggested): 818-317-7236

Party or parties alleged to have committed or are about to commit a violation of BERA:
Droste for City Council 2018

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 19, 2018, candidate Lori Droste held a campaign kickoff event in a vacant retail space near the NW corner of Ashby and College. The building is owned by John Gordon. During her spoken remarks, Ms. Droste thanked Kevin Gordon for donating the space, Le Med for donating the food, Fieldworks for donating the beer and two individuals for wine and cheese.
Per BERA: A person own owns a business can only make contributions from their personal account.
If they write a check from the business account or make an in-kind donation with business assets, that is illegal under BERA. Additionally, Ms. Droste is participating in public financing. Regardless of the illegality of the contributions from the businesses, it is unclear that any of the donations, personal or otherwise, fell within the donation limits established under Public Financing guidelines.

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.

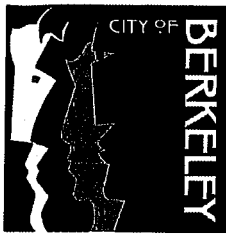
Second-hand knowledge

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 *Harriet Steel*

Date 9/28/18

*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.*



Fair Campaign Practices Commission

October 4, 2018

VIA EMAIL AND U.S. MAIL

Ms. Linda Perry, Treasurer
Droste for City Council 2018
1527 139th Avenue
San Leandro, CA 94578
lindajperry@hotmail.com

Ms. Kerry Birnbach, Asst. Treasurer
Droste for City Council 2018
5208 Manila Ave. 5
Oakland, CA 94618

**RE: Complaint Filed with the Fair Campaign Practices Commission regarding
Droste for City Council 2018**

Dear Ms. Perry and Ms. Birnbach:

On October 2, 2018, our office received a Complaint from Harriet Steel submitted to the Berkeley Fair Campaign Practices Commission (FCPC) asserting violations of the Berkeley Election Reform Act by *Droste for City Council 2018*. (**Attachment 1.**)

The Committee's Form 460 filed on September 22, 2018, covering the period from July 1, 2018 to September 22, 2018 includes at least one contribution that on the face of the filing appears to be from a prohibited source. The statement lists a contribution on Schedule C from 'Mediterranee III' received on August 19, 2018, which the filing identifies under the "Other" contributor code. (**Attachment 2.**)

The Berkeley Election Reform Act ("BERA") strictly prohibits all monetary and non-monetary contributions from business entities. (BMC § 2.12.440.) Additionally, as the controlled committee of a candidate participating in the public financing program, the candidate may only accept contributions from natural persons. (BMC § 2.12.500.A.7 and BMC § 2.12.167.)

Therefore, it appears that the contribution from Mediterranean III, which is not an individual, for kickoff supplies on August 19, 2018 was a prohibited contribution.

This item will be **placed on the agenda for the Fair Campaign Practices Commission's next regular meeting on October 18, 2018** at 7:00 p.m. in Classroom C of the North Berkeley Senior Center at 1901 Hearst Avenue. Pursuant to the Commission's Procedures, our office will conduct an investigation and prepare a memo for the Commission on this matter. (**Attachment 3.**)

If you would like to provide any information relevant to the investigation of this matter or for the Commission's consideration, please submit **the information in writing no later than**

Thursday, October 11, so that the materials may be considered and included with those provided to the Commission. The packet is generally mailed and posted on the Commission's website (<https://www.cityofberkeley.info/FCPC/>) one week in advance of the meeting, and no later than 72 hours prior to the meeting. I can also provide a courtesy copy of the materials to you via email, if you would like.

If you have questions, you may contact the Commission Secretary at 981-6998 or fcpc@cityofberkeley.info.

Sincerely,



JM Jessica Mar
Secretary, Fair Campaign Practices and Open Government Commissions

cc: Mark Numainville, City Clerk

Attachments:

1. Complaint from Harriet Steel, received October 2, 2018
2. Excerpts of Droste for City Council 2018, Form 460 campaign statement filed September 22, 2018, covering the period from July 1, 2018 to September 22, 2018.
3. Procedures for the Fair Campaign Practices Commission, revised July 2014

Recipient Committee Campaign Statement Cover Page

(Government Code Sections 84200-84216.5)

CALIFORNIA FORM

460

Page 1 of 33

For Official Use Only

Date Stamp

E-Filed 09/22/2018 00:06:42 Filing ID: 173808378

Date of election if applicable: (Month, Day, Year)

11/06/2018

Statement covers period from 07/01/2018 through 09/22/2018

SEE INSTRUCTIONS ON REVERSE

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

- Officerholder, Candidate Controlled Committee
State Candidate Election Committee
Recall
General Purpose Committee
Sponsored
Small Contributor Committee
Political Party/Central Committee
Primarily Formed Ballot Measure Committee
Controlled
Sponsored
Primarily Formed Candidate/Officerholder Committee

2. Type of Statement:

- Preelection Statement
Semi-annual Statement
Termination Statement
Amendment (Explain below)
Quarterly Statement
Special Odd-Year Report
Supplemental Preelection Statement - Attach Form 495

3. Committee Information

I.D. NUMBER 1363582

COMMITTEE NAME (OR CANDIDATE'S NAME IF NO COMMITTEE) Droste for City Council 2018

STREET ADDRESS (NO P.O. BOX)

CITY Berkeley STATE CA ZIP CODE 94705 AREA CODE/PHONE (510) 326-2917

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

CITY Oakland STATE CA ZIP CODE 94618 AREA CODE/PHONE (510) 506-5745

OPTIONAL: FAX / E-MAIL ADDRESS droste2018@gmail.com

OPTIONAL: FAX / E-MAIL ADDRESS lindaJPerry@hotmail.com

Treasurer(s)

NAME OF TREASURER Linda Perry

MAILING ADDRESS

CITY San Leandro STATE CA ZIP CODE 94578 AREA CODE/PHONE (510) 258-7787

NAME OF ASSISTANT TREASURER, IF ANY Kerry Birnbach

MAILING ADDRESS

CITY Oakland STATE CA ZIP CODE 94618 AREA CODE/PHONE (510) 506-5745

OPTIONAL: FAX / E-MAIL ADDRESS

lindaJPerry@hotmail.com

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 09/22/2018 Date By Lori Droste

Signature of Treasurer or Assistant Treasurer

By Kerry Birnbach

Signature of Controlling Officerholder, Candidate, State Measure Proponent or Responsible Officer of Sponsor

By

Signature of Controlling Officerholder, Candidate, State Measure Proponent

By

Signature of Controlling Officerholder, Candidate, State Measure Proponent

Schedule C Nonmonetary Contributions Received

Amounts may be rounded to whole dollars.

SCHEDULE C

CALIFORNIA FORM 460

Statement covers period

from 07/01/2018

through 09/22/2018

Page 28 of 33

SEE INSTRUCTIONS ON REVERSE
NAME OF FILER

Droste for City Council 2018

ID. NUMBER

1363582

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER ID. 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)
08/19/2018	Barry Braden Somerset, CA 95684	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Owner Fieldwork Brewing	Kickoff supplies	50.00	50.00 G2018	\$50.00
08/19/2018	Oliver McCrum Berkeley, CA 94705	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Wine Seller Oliver McCrum Wines, Berkeley	Kickoff supplies	50.00	50.00 G2018	\$50.00
08/19/2018	Mediterranee III Berkeley, CA 94705	<input type="checkbox"/> IND <input type="checkbox"/> COM <input checked="" type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		Kickoff supplies	50.00	50.00 G2018	\$50.00
08/19/2018	Deborah Peterson Covington, GA 30014	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Key Account Manager Cypress Grove Chevre	Kickoff supplies	50.00	50.00 G2018	\$50.00
SUBTOTAL \$					200.00		

Attach additional information on appropriately labeled continuation sheets.

Schedule C Summary

- Amount received this period – itemized nonmonetary contributions.
(Include all Schedule C subtotals.) \$ 200.00
- Amount received this period – unitemized nonmonetary contributions of less than \$100 \$ 0.00
- Total nonmonetary contributions received this period.
(Add Lines 1 and 2. Enter here and on the Summary Page, Column A, Lines 4 and 10.) **TOTAL \$** 200.00

*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

Recipient Committee Campaign Statement Cover Page

(Government Code Sections 84200-84216.5)

CALIFORNIA FORM 460
Page 1 of 33
For Official Use Only
Date Stamp: E-Filed 10/05/2018 10:49:53 Filing ID: 174118190

Date of election if applicable: (Month, Day, Year) 11/06/2018

Statement covers period from 07/01/2018 through 09/22/2018

SEE INSTRUCTIONS ON REVERSE

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

- Off-beholder, Candidate Controlled Committee
State Candidate Election Committee
Recall
General Purpose Committee
Sponsored
Small Contributor Committee
Political Party/Central Committee

2. Type of Statement:

- Preelection Statement
Semi-annual Statement
Termination Statement
Amendment (Explain below)

Amended to provide additional employment and address information.

3. Committee Information

COMMITTEE NAME (OR CANDIDATE'S NAME IF NO COMMITTEE)
Droste for City Council 2018
I.D. NUMBER 1363582

Treasurer(s)

NAME OF TREASURER: Linda Perry
MAILING ADDRESS: San Leandro CA 94578
NAME OF ASSISTANT TREASURER, IF ANY: Kerry Birnbach
MAILING ADDRESS: Oakland CA 94618

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 10/04/2018 Date
By Kerry Birnbach Signature of Treasurer or Assistant Treasurer
Executed on 10/04/2018 Date
By Lori Droste Signature of Controlling Officerholder, Candidate, State Measure Proponent or Responsible Officer of Sponsor

Schedule C Nonmonetary Contributions Received

Amounts may be rounded to whole dollars.

SCHEDULE C

CALIFORNIA FORM 460

Statement covers period

from 07/01/2018

through 09/22/2018

Page 28 of 33

SEE INSTRUCTIONS ON REVERSE
NAME OF FILER

Droste for City Council 2018

ID. NUMBER

1363582

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER ID. 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)
08/19/2018	Garbis Bagdasarian Orinda, CA 94563	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Owner La Mediterranee	Kickoff supplies	50.00	50.00 G2018	\$50.00
08/19/2018	Barry Braden Placerville, CA 95667	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Owner Fieldwork Brewing	Kickoff supplies	50.00	50.00 G2018	\$50.00
08/19/2018	Oliver McCrum Berkeley, CA 94705	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Wine Seller Oliver McCrum Wines, Berkeley	Kickoff supplies	50.00	50.00 G2018	\$50.00
08/19/2018	Deborah Peterson Covington, GA 30014	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Key Account Manager Cypress Grove Chevre	Kickoff supplies	50.00	50.00 G2018	\$50.00
SUBTOTAL \$					200.00		

Attach additional information on appropriately labeled continuation sheets.

Schedule C Summary

- Amount received this period - itemized nonmonetary contributions.
(Include all Schedule C subtotals.) \$ 200.00
- Amount received this period - unitemized nonmonetary contributions of less than \$100 \$ 0.00
- Total nonmonetary contributions received this period.
(Add Lines 1 and 2. Enter here and on the Summary Page, Column A, Lines 4 and 10.) **TOTAL \$** 200.00

*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 E
(Continuation Sheet)
Payments Made**

Amounts may be rounded
to whole dollars.

SCHEDULE E (CONT.)

**CALIFORNIA
FORM 460**

Statement covers period
from 07/01/2018
through 09/22/2018

SEE INSTRUCTIONS ON REVERSE
NAME OF FILER

Page 31 of 33

Droste for City Council 2018

I.D. NUMBER
1363582

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

- | | | | | | |
|-----|---|-----|---|-----|---|
| CMP | campaign paraphernalia/misc. | MBR | member communications | RAD | radio airtime and production costs |
| CNS | campaign consultants | MTG | meetings and appearances | RFD | returned contributions |
| CTB | contribution (explain nonmonetary)* | OFC | office expenses | SAL | campaign workers' salaries |
| CVC | civic donations | PET | petition circulating | TEL | t.v. or cable airtime and production costs |
| FL | candidate filing/ballot fees | PHO | phone banks | TRC | candidate travel, lodging, and meals |
| FND | fundraising events | POL | polling and survey research | TRS | staff/spouse travel, lodging, and meals |
| IND | independent expenditure supporting/opposing others (explain)* | POS | postage, delivery and messenger services | TSF | transfer between committees of the same candidate/sponsor |
| LEG | legal defense | PRO | professional services (legal, accounting) | VOT | voter registration |
| LIT | campaign literature and mailings | FRT | print ads | WEB | information technology costs (internet, e-mail) |

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
Amazon N. Seattle, WA 98109	CMP		Kickoff supplies	62.04
Trader Joe's Oakland, CA 94618	FND			72.11
Mediterranean III Berkeley, CA 94705	CMP			97.49
Paper Plus Berkeley, CA 94702	CMP			185.00
Trader Joe's Oakland, CA 94618	FND			47.57

* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

SUBTOTAL \$ 464.21

Recipient Committee Campaign Statement Cover Page

(Government Code Sections 84200-84216.5)

Date Stamp: E-Filed 10/14/2018 20:44:22 Filing ID: 174249416

Statement covers period from 07/01/2018 through 09/22/2018

Date of election if applicable: 11/06/2018

SEE INSTRUCTIONS ON REVERSE

2. Type of Statement: [X] Preelection Statement [] Quarterly Statement [] Semi-annual Statement [] Special Odd-Year Report [] Termination Statement [] Supplemental Preelection Statement - Attach Form 495 [X] Amendment (Explain below)

1. Type of Recipient Committee: [X] Officeholder, Candidate Controlled Committee [] State Candidate Election Committee [] Recall [] General Purpose Committee [] Sponsoring [] Small Contributor Committee [] Politically Party/Central Committee [] Primarily Formed Ballot Measure Committee [] Controlled [] Sponsored [] Primarily Formed Candidate/Officeholder Committee [] Officeholder Committee

3. Committee Information: COMMITTEE NAME (OR CANDIDATE'S NAME IF NO COMMITTEE) Droste for City Council 2018 I.D. NUMBER 1363582

Treasurer(s): NAME OF TREASURER Linda Perry MAILING ADDRESS

STREET ADDRESS (NO P.O. BOX) Berkeley CA 94705 STATE CA ZIP CODE 94705 AREA CODE/PHONE (510) 326-2917

Treasurer(s) continued: CITY San Leandro STATE CA ZIP CODE 94578 AREA CODE/PHONE (510) 258-7787 NAME OF ASSISTANT TREASURER, IF ANY Kerry Birnbach MAILING ADDRESS

CITY Oakland STATE CA ZIP CODE 94618 AREA CODE/PHONE (510) 506-5745 OPTIONAL: FAX / E-MAIL ADDRESS lindajperry@hotmail.com

CITY Berkeley STATE CA ZIP CODE 94705 AREA CODE/PHONE (510) 326-2917 OPTIONAL: FAX / E-MAIL ADDRESS droste2018@gmail.com

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 10/14/2018 Date By Kerry Birnbach Signature of Treasurer or Assistant Treasurer Executed on 10/14/2018 Date By Lori Droste Signature of Controlling Officer/holder, Candidate, State Measure Proponent or Responsible Officer of Sponsor Executed on Date By Signature of Controlling Officer/holder, Candidate, State Measure Proponent Executed on Date By Signature of Controlling Officer/holder, Candidate, State Measure Proponent

Schedule C Nonmonetary Contributions Received

Amounts may be rounded
to whole dollars.

Statement covers period

from 07/01/2018

through 09/22/2018

Page 28 of 34

SEE INSTRUCTIONS ON REVERSE
NAME OF FILER

I.D. NUMBER

Droste for City Council 2018

1363582

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)
08/19/2018	Garbis Bagdasarian Orinda, CA 94563	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Owner La Mediterranee	Kickoff supplies	50.00	50.00 G2018	\$50.00
08/19/2018	Barry Braden Placerville, CA 95667	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Owner Fieldwork Brewing	Kickoff supplies	50.00	50.00 G2018	\$50.00
08/19/2018	Oliver McCrum Berkeley, CA 94705	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Wine Seller Oliver McCrum Wines, Berkeley	Kickoff supplies	50.00	50.00 G2018	\$50.00
08/19/2018	Deborah Peterson Covington, GA 30014	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Key Account Manager Cypress Grove Chevre	Kickoff supplies	50.00	50.00 G2018	\$50.00
SUBTOTAL \$					200.00		

Attach additional information on appropriately labeled continuation sheets.

Schedule C Summary

- Amount received this period – itemized nonmonetary contributions.
(Include all Schedule C subtotals.) \$ 200.00
- Amount received this period – unitemized nonmonetary contributions of less than \$100 \$ 0.00
- Total nonmonetary contributions received this period.
(Add Lines 1 and 2. Enter here and on the Summary Page, Column A, Lines 4 and 10.) **TOTAL \$** 200.00

*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 E
(Continuation Sheet)
Payments Made**

SCHEDULE E (CONT.)

Amounts may be rounded
to whole dollars.

**CALIFORNIA 460
FORM**

SEE INSTRUCTIONS ON REVERSE
NAME OF FILER

Statement covers period
from 07/01/2018

through 09/22/2018

Page 31 of 34

I.D. NUMBER
1363582

Droste for City Council 2018

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

- | | | |
|---|--|---|
| <ul style="list-style-type: none"> CMP campaign paraphernalia/misc. CNS campaign consultants CTB contribution (explain nonmonetary)* CVC civic donations FIL candidate filing/ballot fees FND fundraising events ND independent expenditure supporting/opposing others (explain)* LEG legal defense LIT campaign literature and mailings | <ul style="list-style-type: none"> MBR member communications MTG meetings and appearances OFC office expenses PET petition circulating PHO phone banks POL polling and survey research POS postage, delivery and messenger services PRO professional services (legal, accounting) PRT print ads | <ul style="list-style-type: none"> RAD radio airtime and production costs RFD returned contributions SAL campaign workers' salaries TEL t.v. or cable airtime and production costs TRC candidate travel, lodging, and meals TRS staff/spouse travel, lodging, and meals TSF transfer between committees of the same candidate/sponsor VOT voter registration WEB information technology costs (internet, e-mail) |
|---|--|---|

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
Amazon N. Seattle, WA 98109	CMP	Kickoff supplies	62.04
Trader Joe's Oakland, CA 94618	FND		72.11
Mediterranree III Berkeley, CA 94705	CMP		97.49
Paper Plus Berkeley, CA 94702	CMP		185.00
Trader Joe's Oakland, CA 94618	FND		47.57

* Payments that are contributions or independent expenditures must also be summarized on Schedule D. **SUBTOTAL \$ 464.21**

Schedule F Accrued Expenses (Unpaid Bills)

Amounts may be rounded to whole dollars.

Statement covers period
from 07/01/2018
through 09/22/2018

CALIFORNIA FORM 460

Page 34 of 34

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

Droste for City Council 2018

I.D. NUMBER

1363582

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

OMP campaign paraphernalia/misc.
CNS campaign consultants
CTB contribution (explain nonmonetary)*
CVC civic donations
FIL candidate filing/ballot fees
FND fundraising events
IND independent expenditure supporting/opposing others (explain)*
LEG legal defense
LIT campaign literature and mailings

MBR member communications
MTG meetings and appearances
OFC office expenses
PET petition circulating
PHO phone banks
POL polling and survey research
POS postage, delivery and messenger services
PRO professional services (legal, accounting)
PRT print ads

RAD radio airtime and production costs
RFD returned contributions
SAL campaign workers' salaries
TEL t.v. or cable airtime and production costs
TRC candidate travel, lodging, and meals
TRS staff/spouse travel, lodging, and meals
TSF transfer between committees of the same candidate/sponsor
VOT voter registration
WEB information technology costs (internet, e-mail)

NAME AND ADDRESS OF CREDITOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE OR DESCRIPTION OF PAYMENT	(a) OUTSTANDING BALANCE BEGINNING OF THIS PERIOD	(b) AMOUNT INCURRED THIS PERIOD	(c) AMOUNT PAID THIS PERIOD (ALSO REPORT ON E)	(d) OUTSTANDING BALANCE AT CLOSE OF THIS PERIOD
Gordon Commercial Properties, LLC Berkeley, CA 94709	FND Event Space	0.00	100.00	0.00	100.00
SUBTOTALS \$			100.00 \$	0.00 \$	100.00

* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

Schedule F Summary

- Total accrued expenses incurred this period. (Include all Schedule F, Column (b) subtotals for accrued expenses of \$100 or more, plus total unitemized accrued expenses under \$100.) **INCURRED TOTALS \$** 100.00
- Total accrued expenses paid this period. (Include all Schedule F, Column (c) subtotals for payments on accrued expenses of \$100 or more, plus total unitemized payments on accrued expenses under \$100.) **PAID TOTALS \$** 0.00
- Net change this period. (**Subtract** Line 2 from Line 1. Enter the difference here and on the Summary Page, Column A, Line 9.) **NET \$** 100.00
May be a negative number

**COMMITTEE TO ELECT
DROSTE FOR CITY COUNCIL 2018**
2861 PINE AVE.
BERKELEY, CA 94705

132

56-32211211

DATE 10/12/2018

ISSUE

Pay to the Order of Gordon Commercial Properties LLC \$ 100.00
One hundred dollars

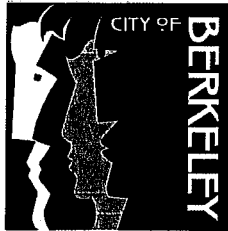
ISSUE
DATE
ISSUE



Mechanics Bank
www.mechanicsbank.com

[Handwritten signature]

FOR
1:



Fair Campaign Practices Commission

Attachment B

MINUTES

North Berkeley Senior Center
1901 Hearst Avenue
Classroom C (Upstairs)

Regular Meeting
October 18, 2018
7:00 p.m.

Members Present: Brad Smith, Dean Metzger, Emma Soichet, Brian Tsui, Mark McLean

Members Absent: Greg Harper (leave of absence), Patrick O'Donnell, Daniel Saver (leave of absence)

Also Present: Jessica Mar, Secretary/Deputy City Attorney
Leslie Rome, Assistant Management Analyst, City Clerk's Office

1. **Call to Order**

Chair called the meeting to order at 7:05 p.m.

2. **Roll Call**

Roll call taken.

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

1 public comment on matters not on agenda. 5 members of the public in attendance.

4. **Reports**

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

5. **Approval of minutes for the September 20, 2018 regular meeting**

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

Motion to approve minutes (M/S/C: Tsui/McLean; Ayes: Smith, Metzger, McLean, Tsui; Noes: None; Abstain: None; Absent: Soichet, Harper (leave of absence); O'Donnell, Saver (leave of absence)).

6. **Approval of minutes for the October 11, 2018 special meeting**

- c. Public comment: no speakers.
- d. Commission discussion and action.

Motion to approve minutes (M/S/C: Smith/Tsui; Ayes: Smith, Metzger, McLean, Tsui; Noes: None; Abstain: None; Absent: Soichet, Harper (leave of absence), O'Donnell, Saver (leave of absence)).

7. Staff report regarding closure of North Berkeley Senior Center for renovations and change of meeting location; discussion and possible action.

Staff reported that the North Berkeley Senior Center will be closed next year for renovations. Commissions currently meeting at North Berkeley Senior Center will need to meet in alternate locations. The Secretary has submitted a request for a new meeting location for the Commission starting in January 2019. The Secretary will keep the Commission updated regarding the new meeting location.

-----Commissioner Soichet arrived at 7:17 p.m.-----

The Chair, with the consent of the Commission, reordered item 9 before item 8.

9. Complaint of alleged violation of the Berkeley Election Reform Act by *Droste for City Council 2018* submitted by H. Steel; discussion and possible action.

Public Comment: no public comment.
Commission discussion and action:

Motion to find probable cause that a violation of BMC 2.12.500.A.7 and BMC 2.12.440 occurred for the Committee's use of the retail space (M/S/C: Smith/Soichet; Ayes: Smith, Metzger, McLean, Soichet, Tsui; Noes: None; Abstain: None; Absent: Harper (leave of absence); O'Donnell, Saver (leave of absence)).

Motion to find lack of probable cause that the donations of food and beverages as nonmonetary contributions to the committee violated BERA (M/S/C: McLean/Smith; Ayes: Smith, Metzger, McLean, Soichet, Tsui; Noes: None; Abstain: None; Absent: Harper (leave of absence); O'Donnell, Saver (leave of absence)).

Motion to place resolution of the complaint on the agenda for the next regular meeting (M/S/C: Tsui/Soichet; Ayes: Smith, Metzger, McLean, Soichet, Tsui; Noes: None; Abstain: None; Absent: Harper (leave of absence); O'Donnell, Saver (leave of absence)).

8. Public Campaign Financing Program requests for matching funds; discussion and possible action.

Public Comment: no comment.
Commission discussion and action:

Motion to approve 6:1 public matching funds for candidate Cecilia Rosales in an amount not to exceed \$1,200.00. (M/S/C: Smith/Soichet; Ayes: Smith, Metzger, McLean, Soichet, Tsui; Noes: None; Abstain: None; Absent: Harper (leave of absence); O'Donnell, Saver (leave of absence)).

Motion to approve 6:1 public matching funds for candidate Gregory Magofna in an amount not to exceed \$2,100.00. (M/S/C: Smith/Soichet; Ayes: Smith, Metzger, McLean, Soichet, Tsui; Noes: None; Abstain: None; Absent: Harper (leave of absence); O'Donnell, Saver (leave of absence)).

Motion to approve 6:1 public matching funds for candidate Rigel Robinson in an amount not to exceed \$1,242.00. (M/S/C: Smith/Tsui; Ayes: Smith, Metzger, McLean, Soichet, Tsui; Noes: None; Abstain: None; Absent: Harper (leave of absence); O'Donnell, Saver (leave of absence)).

Motion to temporarily adjourn at 8:22 p.m. (M/S/C: Soichet/Smith; Ayes: Smith, Metzger, McLean, Soichet, Tsui; Noes: None; Abstain: None; Absent: Harper (leave of absence); O'Donnell, Saver (leave of absence)).

-----*The Chair reconvened the meeting at 8:27 p.m.*-----

10. Referral from the City Clerk's Office regarding potential violation of the Berkeley Election Reform Act by *Lacey for Council 2018*; discussion and possible action.

Public Comment: one public comment.
Commission discussion and action:

Motion to find probable cause that the Committee committed a violation of BMC 2.12.500 (M/S/C: Tsui/Soichet; Ayes: Smith, Metzger, McLean, Soichet, Tsui; Noes: None; Abstain: None; Absent: Harper (leave of absence); O'Donnell, Saver (leave of absence)).

Motion to continue the referral to the next regular commission meeting and request staff report include training materials provided related to public financing, date of training, dates of Fair Election funds disbursements to the committee. (M/S/C: Soichet/McLean; Ayes: Smith, Metzger, McLean, Soichet, Tsui; Noes: None; Abstain: None; Absent: Harper (leave of absence); O'Donnell, Saver (leave of absence)).

Motion to withdraw the prior motion (M/S/C: McLean/Tsui; Ayes: Smith, Metzger, McLean, Soichet, Tsui; Noes: None; Abstain: None; Absent: Soichet; Harper (leave of absence); O'Donnell, Saver (leave of absence)).

Motion to continue the discussion of the item to a future regular meeting of the Commission include training materials provided related to public financing for treasurers and candidates, date of the training, and a timeline of the Committee's Fair Election funds disbursements to the committee. (M/S/C: Soichet/Tsui; Ayes: Smith, Metzger, McLean, Soichet, Tsui; Noes: None; Abstain: None; Absent: None; Harper (leave of absence); O'Donnell, Saver (leave of absence)).

Motion to continue items 11 and 12 on the agenda to the next regular meeting (M/S/C: McLean/Tsui; Ayes: Smith, Metzger, McLean, Soichet, Tsui; Noes: None; Abstain: None; Absent: Harper (leave of absence); O'Donnell, Saver (leave of absence)).

11. Letter from James Mcfadden, re: public financing changes, dated September 5, 2018; discussion and possible action. (Previously distributed in September 20, 2018 packet, page 32).

Public Comment: no comment.
Commission discussion and action:

No action taken.

12. Report from the Ad Hoc Subcommittee on Independent Expenditures; discussion and possible action.

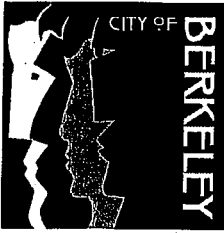
Public Comment: no comment.
Commission discussion and action:

No report given.

13. Adjournment.

Motion to adjourn (M/S/C: Smith/Tsui; Ayes: Smith, Metzger, McLean, Soichet, Tsui; Noes: None; Abstain: None; Absent: Harper (leave of absence); O'Donnell, Saver (leave of absence)).

The meeting adjourned at 10:16 p.m.



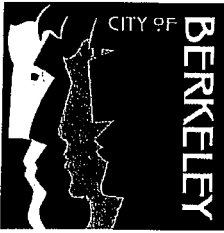
Fair Campaign Practices Commission

DATE: March 21, 2019
TO: FAIR CAMPAIGN PRACTICES COMMISSION
FROM: EMMANUELLE SOICHET, Commission Secretary ^{ES}
SUBJECT: Commission 2019 regular meeting schedule

The Commission must set its annual meeting schedule for 2019. In recent years, the Commission has limited the number of times it meets over the summer. However, given that the Commission canceled its January and February meetings, staff recommends the Commission add a June meeting this year. (By comparison, the Open Government Commission meets every month unless it has no pending complaints or business to discuss.)

Based on the current format of meeting every third Thursday at 7 p.m., the proposed schedule for the remainder of the year would be:

- Thursday, April 18
- Thursday, May 16
- Thursday, June 20
- Thursday, July 18
- Thursday, September 19
- Thursday, October 17
- Thursday, November 21



Fair Campaign Practices Commission

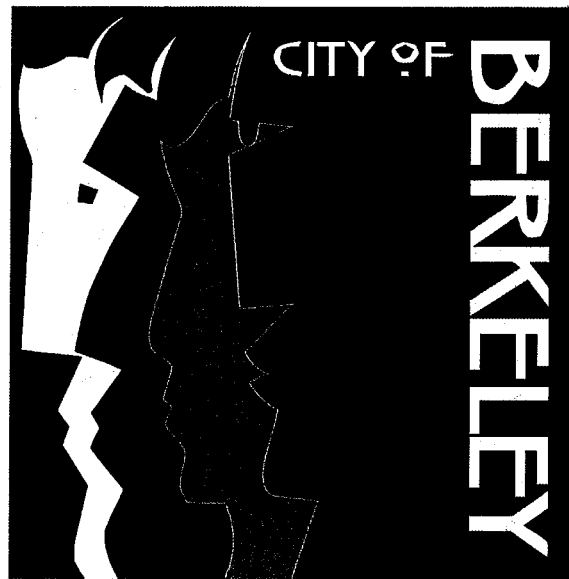
DATE: March 21, 2019
TO: FAIR CAMPAIGN PRACTICES COMMISSION
FROM: EMMANUELLE SOICHET, Commission Secretary ^{ES}
SUBJECT: Information report regarding new abridged Commissioners' Manual

On March 8, the City Clerk's office published a new, abridged Commissioners' Manual, attached here.

The full version of the manual remains available on the City website:
[https://www.cityofberkeley.info/Clerk/Commissions/Commissions Commission Manual.aspx](https://www.cityofberkeley.info/Clerk/Commissions/Commissions%20Commission%20Manual.aspx)

Attachments

1. Abridged Commissioners' Manual



ABRIDGED COMMISSIONERS' MANUAL 2018 EDITION

The material in this guide is available in alternative formats upon request. Alternative formats include audio-format, braille, large print, electronic text, etc. Please contact the Disability Services Specialist and allow 7-10 days for production of the material in an alternative format.

Phone: 1-510-981-6418 | TTY: 1-510-981-6347

This Quick Reference Guide has been created for commissioners and board members. It is an easy, quick way to review common points of interest about commissioner service. More in-depth guidance, and the City's official guidelines and regulations related to commissions, may be found in the **Commissioners' Manual**, which outlines key concepts and rules related to the terms, requirements, work and purview of commissioners throughout their time on a commission or board. **Commissioners are encouraged to familiarize themselves with the Manual, as it contains comprehensive procedural and regulatory information that is critical to commissioners' work.**

You may find the Commissioners' Manual by contacting the City Clerk Department at 510-981-6900 or emailing commission@cityofberkeley.info, or by visiting the Boards and Commissions page on the City's website at <https://www.cityofberkeley.info/commissions/>.

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INTRODUCTION

For comprehensive information related to the purposes and organization of the board and commission system, and how their work is established, please refer to the Commissioners' Manual.

Commission Purview: Every commission is created by enabling legislation, which may take the form of an ordinance or resolution. When appointed, Commissioners are provided a copy of the enabling legislation pertinent to their commission or board. This enabling legislation defines the role, scope, and responsibilities of the commission.

SERVING ON A COMMISSION

Membership and Appointments: In order to be appointed to serve on a commission, commissioners must abide by certain requirements, such as residency requirements, and not be employees of the City of Berkeley. Appointments are generally made by a Councilmember appointing someone pursuant to the Fair Representation Ordinance.

Oath of Office: Before commissioners can participate as voting members of their commissions, they must take the Oath of Office as required by law, at the City Clerk Department or through their commission secretaries. Failure to take the Oath of Office within 30 days of the appointment date is cause for automatic termination.

Terms of Office: Most commissions have both "term minimums" and "term maximums."

Vacancies: Vacancies are filled via the commission appointment or reappointment process.

Commissions with Special Regulations: The following commissions require special qualifications or unique terms for appointment: Sugar-Sweetened Beverage Product Panel of Experts, Mental Health Commission, Community Health Commission, Fair Campaign Practices Commission, Cannabis Commission, Homeless Services Panel of Experts, Loan Administration Board, and Youth Commission.

Attendance Requirements: It is important to note that all commissions are subject to certain attendance regulations. Failure to comply with attendance rules can result in automatic termination.

Commissioners must attend all meetings in order to avoid being marked absent. A commissioner is "absent" unless he or she 1) has been granted an excused absence because the meeting conflicts with a religious or cultural holiday (see below); or 2) The commissioner has obtained an approved leave of absence from their appointing councilmember or commission. Commissioners should inform the secretary as far in advance as possible if they cannot attend a meeting.

A commissioner must be present at least one hour, or 50% of the entire meeting, whichever is less, to be counted as present for purposes of attendance.

Absences, Leaves of Absence, and Terminations: There are various kinds of absences; below is information about them, and how they may lead to automatic termination.

Leaves of Absence: Leaves of Absence (LOA) may be granted to the commissioner by the appointing councilmember for a specific meeting, or a period not to exceed three months. Written notice of the LOA must be filed by the Councilmember with the City Clerk prior to the actual absence. Leaves of Absence may not be granted retroactively. Commissioners interested in seeking a Leave of Absence should **contact their appointing Councilmember with their request in advance of the absence**, and should consult the Commissioners' Manual to review specific exceptions and rules related to Leaves of Absence.

Automatic Terminations: The following are reasons why commissioners are automatically terminated:

- Absence from three consecutive meetings. Note that Commissions that meet on a reduced schedule may have different attendance rules.
- Absence from 50% or more of all regular meetings in a six-month period. Note that newly appointed commissioners must attend more than half of all regular meetings held during the reporting period since being appointed in order to avoid termination.
- The non-filing of required Conflict of Interest Disclosure statements.
- Failure to take the Oath of Office within 30 days of the appointment date.
- Non-residency.
- Failure to meet any eligibility requirements of the ordinance, resolution, or other law establishing the commission or regulating its membership.

Resignations: Commissioners wishing to resign must submit a written resignation **directly to the City Clerk** and to the appointing Councilmember or the Council, as appropriate. Either an electronic or a hard copy resignation will be accepted.. Resignations are effective the day the notice is received by the City Clerk unless a future date is indicated.

Accommodations for Commissioners with Disabilities: Commissioners who have a disability have a right to reasonable accommodations necessary for them to participate in City meetings and programs. The Americans with Disabilities Act (ADA) and other laws mandate that the City provide programmatic access and effective communication for people with disabilities to be able to participate in the City's programs, services, and activities including public meetings. For more information, contact the City's Disability Compliance Program at 6418.

Stipend: To remove economic hardship barriers, the City Council authorizes payment in lieu of certain expenses to commissioners of all Council-appointed boards, commissions, committees, task forces, and joint subcommittees who meet certain household income criteria. Eligibility criteria and payment information may be found in the Commissioners' Manual. Commissioners submit periodic eligibility paperwork directly to the Commission Secretary.

Conflict of Interest and Form 700: Members of Berkeley's commissions provide advice to the City Council, study various matters and, in the case of certain commissions, function in a quasi-judicial capacity. All members of commissions should be aware of the need to avoid any instances of conflict of interest. Conflict of interest standards are generally applicable to all commissions, with specific requirements sometimes applicable to particular boards and commissions. Conflict of Interest is reviewed in the Commissioners' Manual in depth. Some important points related to Conflict of Interest include:

- Commissioners are prohibited from making contracts in which they are financially interested.
- Commissioners are prohibited from participating in any decisions if it is reasonably foreseeable that the decision will have a financial effect on interests of the commissioner or his or her family, separate from the effect of the decision on the public in general.
- Commissioners must disclose the conflict and then remove themselves (recusal) from proceedings if there is a Conflict of Interest.

Most commissioners are required to file a Form 700 Statement of Economic Interests in which they disclose specified financial interests. Failure to file the Form 700 within 30 days of appointment will result in termination from the commission. Form 700s are required upon appointment, annually, and when leaving a commission.

Commission Organization and Officers: All commissions have a chair and vice-chair as its officers. Officers are elected by a majority of the members of the commission. The terms, training requirements, and duties of these offices are described in the Commissioners' Manual.

Use of the City Logo and Business Card Policy: The City of Berkeley does not provide business cards for members of appointed boards and commissions. Commissioners are prohibited from using the city logo, branding, or collateral to create their own business cards.

COORDINATION AND COMMUNICATION WITH COUNCIL, STAFF, AND OTHERS

Coordination and Communication with City Council: The role of a commission is to advise the City Council. The City Council is responsible for accepting, rejecting, or modifying commission recommendations. The Council relies on the various commissions to increase the variety of viewpoints and talents brought to bear on City problems. By concentrating on specific areas, commissioners use their expertise and conduct detailed analyses that the Council itself may not have the time to pursue. It is expected that commissions will adopt positions of advocacy within their specific purview. However, the City Council's role is to take into consideration the many varied and sometimes conflicting public needs and render its judgment of what will best serve the public good. The Council must weigh the effect of any given recommendation, not only on the particular area of interest but on all other City goals and programs.

A commission transmits its findings, responses to referrals, and other recommendations to the Council through the Council agenda, or by transmitting a letter of communication.

There are many factors related to an item being placed on an agenda or in transmitting a letter to the Council. The commission secretary facilitates the process of communicating with the Council; consult the Commissioners' Manual for more information about this topic.

Coordination and Communication with Staff: The commission secretary, a City employee designated to assist the commission in its functions, performs administrative duties and ensures that the commission is apprised of laws and processes affecting proposed recommendations.

The commission secretary is also a representative of the City Manager, and therefore advises the commission of staff's recommendations. In this sense, the secretary is an active participant with the commission, although without a vote, rather than merely a passive transmitter of information. The secretary assists the commission but is not an employee of the commission. At all times, the secretary is directly responsible to the department director and City Manager.

In coordinating with staff, commissioners must:

- Ensure all contacts from the commission to any member of the staff, including those to a higher-level employee (e. g. the City Manager), are transmitted through the secretary. Conversely, all contacts from staff to the commission go through the secretary.
- Keep all contacts with staff members clearly in the framework of the commission assignment.
- Not ask for individual reports, favors, or special considerations.

- Direct complaints from the public directly to the secretary, who will respond on behalf of the City.
- Realize that the assigned secretary reports directly to a supervisor and may not be able to carry out every request that the commission may have.

Further information related to the secretary's role with the commission is provided in the Commissioners' Manual.

Commission Relationship with City Manager: The City Manager has a direct interest in the work of all commissions as they often advise the City Council on issues that will affect the use of staff time and City resources.

IMPORTANT REMINDER: When considering the appropriateness of communicating publically as a commissioner, remember these simple guidelines:

- The City Council speaks for the City
- Commissions speak to the Council
- Commissioners speak as private individuals

Any time a commissioner uses their commission title or references their membership on a city commission when speaking publically, they must state the following:

"I am speaking in an individual capacity and not representing the [Commission Name] or the City of Berkeley."

PUBLIC MEETINGS AND AGENDAS

The Brown Act: The Brown Act is the state's open meetings act. It is intended to ensure that the public has adequate notice of what actions its elected and appointed local decision makers may take and that those decisions and the deliberations leading to them occur in public.

The Brown Act applies to the meetings of legislative bodies such as commissions.

Any contact between a quorum of the legislative body, either directly or through intermediaries, to hear, discuss, deliberate, or take action "on any matter within the subject matter jurisdiction" of the City or commission is a meeting. All meetings must be conducted in compliance with the Brown Act. Meetings also include retreats, forums, workshops, and similar types of events. The definition of a meeting extends to contact in person, by telephonic or other electronic medium, or through intermediaries. With a few narrow exceptions not applicable to most commissions, all meetings of legislative bodies must be open to the public.

Types of Meetings: Meeting types include:

- Regular meetings—meetings that occur at dates, times, and places set by formal action of the commission at the beginning of the year.
- Special meetings—meetings called to hear a specific item or items. These meetings are not “standing” meetings with set dates, times, and places.
- Subcommittee meetings—meetings with less than a quorum of the parent committee, designated by the commission for a specific task and a limited duration. These subcommittees are advisory to their parent commission, not to Council, and are tasked with studying specific issues. Note that ad hoc subcommittees have different agenda requirements than other kinds of meetings.
- Public hearings—meetings that are held when required by law. Not all commissions hold public hearings.
- Concurrent meetings of commissions—meetings held by two or more commissions or subcommittees to discuss an issue that falls under their purview.

Each type of meeting has its own requirements related to how the meeting is noticed (how many hours prior to the meeting the agenda is published, and where it is published). More information related to how the Brown Act treats these meetings is available in the Commissioners’ Manual. The Manual also explains what gatherings are not considered meetings under the Brown Act.

Brown Act Violations and Danger Areas: Below are some of the “danger areas” related to the Brown Act.

- Serial Meetings: One type of illegal meeting is a “serial meeting.” A serial meeting is one in which a quorum of a legislative body communicates with each other, directly or indirectly, through whatever medium, to develop collective concurrence. There are many types of serial meetings, all of which are prohibited.
- Retreats, Forums, Workshops: Retreats, forums, study sessions, workshops, and similar are considered meetings. Any such activity, where a quorum of the commission is present and discussing commission business, **is a meeting**. It must meet all the requirements for notice, public participation, location, and accessibility.
- Lobbying: Serial lobbying by members of the public of all commission members is not prohibited *as long as they are not acting as intermediaries between members of the legislative body.*

Placing Items on a Commission Agenda: Any commissioner may submit items to appear on their respective commission’s agenda. Commissions should adopt procedures and guidelines in their bylaws for submitting items to the commission agenda.

COMMISSION PROCEDURES

Following proper procedures will ensure the validity and integrity of commission actions. It is essential that commissioners remember that the standards of conduct and transparency are higher for public legislative bodies. Procedures ensure clear and efficient conduct of commission business and facilitate a productive public process.

Polling, Quorum, and Voting: The Commissioners' Manual reviews proper procedures for polling to ensure there is a quorum for a meeting. A quorum is the minimum number of commissioners who must be present for the valid transaction of business. Voting refers to the number of affirmative votes needed to pass a motion.

Rules and Procedures of Commission Meetings: Procedures for meetings are established via meeting rules. Parliamentary procedures for chairs and commissioners, the precedence of motions, and voting procedures are available in informational materials provided by the City Clerk Department. Parliamentary rules derive from Robert's Rules of Order.

Order and Decorum: The ways in which the public may address the commission at meetings, and the conduct of public at these meetings, is addressed in the Commissioners' Manual.

Commissioners must adhere to these standards of conduct:

- While the commission is in session, the commissioners should not interrupt the proceedings or any commissioner or member of the public who has the floor.
- The chair or the vice-chair may participate in the debate, subject only to such limitations of debate as are imposed on all commissioners. The chair should not be deprived of any of the rights and privileges enjoyed by a commissioner by reason of his or her acting as the presiding officer.
- Every commissioner desiring to speak should address the chair and, upon recognition by the chair, should confine himself or herself to the question under debate.
- A commissioner, once recognized, should not be interrupted when speaking unless it is to call him or her to order or for a point of personal privilege. If a commissioner, while speaking, is called to order, he or she should cease speaking until the question of order can be determined, and, if in order, he or she should be permitted to proceed.

COMMISSION REPORTS TO COUNCIL

The City Council values the recommendations that commissions make, and commissions should follow guidelines to create high-quality reports. The agenda process and the Council's agenda schedule are important to consider when creating a report.

To transmit findings to the Council, **action of the full commission is required.** Commissions should prepare the text of their reports or letters with the approval of the full commission. Basic steps for communicating to the Council include:

- An item is placed before the commission by Council referral, staff, or a commissioner.
- The commission agendas the topic.
- The commission discusses the agenda item and votes to send its recommendation or findings to Council.
- The commission drafts a report, approving the text by motion and vote, and sends it to the secretary (it may take several commission meetings to fully discuss an item and agree on findings). Final editing may be assigned to specific commissioners.
- The secretary enters the report into the Council agenda review process within three weeks from receiving the final text of the report from the commission.

There are procedural aspects related to providing the Council with high-quality reports, such as going through a comprehensive review process, evaluating financial implications, using the correct format, and clearly stating the implications of the recommendation. Reports should include:

- A clear recommendation on what action the commission is asking Council to take.
- A realistic evaluation of the financial implications of the recommendation and, if possible, potential funding sources.
- The reasons for the recommendation and the facts that support them.
- The resolution or ordinance in proper format, if needed.

INFORMATION FOR CHAIRS AND VICE-CHAIRS

The chair, who is elected by the majority of the commission for a one year term, presides at commission meetings and ensures the work of the commission is accomplished.

The election of the chair and vice-chair is usually in February; check the commission's specific enabling legislation for exceptions. The term for both chair and vice-chair is one year. Elections must be placed on the commission agenda, as described in the Commissioners' Manual. Regulations for officer elections include:

- 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.
- 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.

A commissioner shall not serve as chair for more than two consecutive years; there are no term limits for the vice-chair.

The vice-chair assumes the duties of the chair in his or her absence.

Some of the major duties for the chair include:

- Presiding over meetings effectively by exerting sufficient control of the meeting to eliminate irrelevant, repetitious, or otherwise unproductive discussion. At the same time, the chair must ensure that all viewpoints are heard and are considered in a fair and impartial manner.
- Controlling the debate among commissioners so everyone has a chance to speak.
- Participating in debate.
- Making motions, and seconding motions.
- Presiding over public hearings.
- Ensuring commission bylaws, if any, and procedures are followed. The chair cannot make rules related to the conduct of meetings; only the full commission may do so.
- Appointing commissioners to temporary subcommittees subject to the approval of the full commission.

- Approving the agenda prior to distribution. This is limited to the structure and order of the agenda and does not grant the chair the authority to remove an item submitted by commissioners or staff if submitted by the established deadline.
- Signing correspondence on behalf of the commission.
- Representing the commission before the City Council. Other commissioners may be the representative with the formal approval of the commission by motion and vote.
- Responding to inquiries from the media to clarify actions taken by the commission, but *not editorializing, offering personal opinions, or speculating about future actions when speaking in such capacity.*
- Approving commission reports to Council. The chair cannot modify content that was approved by the full commission.
- Calling special meetings when necessary.

Per the City Council, chairs and vice-chairs are required to participate in mandatory annual training. A video training provided by the City Clerk Department satisfies this requirement. The video features training on commission procedures and legal requirements. This training video must be viewed and the Affirmation of Completion must be filed with the City Clerk no later than 60 calendar days from the date of election as chair or vice-chair. Failure to comply with these requirements will result in the immediate forfeiture of the position of chair or vice-chair. While not mandatory for commissioners other than the chair and vice-chair, completion of this training is encouraged for all commissioners.

Communications

From: Runningwolf Campaign <runningwolf4mayor@gmail.com>
Sent: Tuesday, January 08, 2019 3:39 PM
To: FCPC (Fair Campaign Practices Commission)
Subject: Fwd: Declaration to Berkeley's Fair Campaign Practices Commission Regarding Its Handling of Election Violations in Berkeley's 2016 Mayoral Election
Attachments: FCPC 11-15-18 Declaration.docx

Dear FCPC Representative,

I am re-forwarding this communication to you now more than 7 days ahead of the upcoming meeting, which shows that I have been trying for several months now to ensure that the attached declaration is included in the packet and on the Agenda for the FCPC to address, as per the request of the FCPC. There are several important legal issues raised which concern whether the FCPC has fulfilled its statutory obligations to uphold BERA and enforce Berkeley's Election Law with regard to the 18 campaign finance convictions against Jesse Arreguin.

Please let me know if you have any questions. I just left a message with Ms. Brown's voice mail as I have not received any responses by email for several months now from the FCPC concerning this matter.

Thanks,
Thomas Hodgman
RunningWolf Campaign Manager

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

From: Runningwolf Campaign <runningwolf4mayor@gmail.com>
Date: Fri, Nov 9, 2018 at 6:17 PM
Subject: Fwd: Declaration to Berkeley's Fair Campaign Practices Commission Regarding Its Handling of Election Violations in Berkeley's 2016 Mayoral Election
To: FCPC (Fair Campaign Practices Commission) <FCPC@cityofberkeley.info>

Please be advised that I am forwarding to you below the email I sent to Jessica Mar yesterday, as I had been in communication with her for several months concerning the aforementioned subjects in her position as Secretary of the FCPC, and had previously sent material to her to ensure its inclusion in the packet.

It was not until today when I sent a second follow-up email - even though I had emailed Ms. Mar yesterday - that I received an automatic email informing me that she was no longer with the City of Berkeley. And thus, I presume, she is no longer the Secretary of the FCPC. I had no way of knowing this, as even still the FCPC's website still lists Ms. Mar as its Secretary.

The submission in question (attached to this forwarded email) was emailed more than 7 days in advance of this month's meeting, within the required time frame. Since I had no way of knowing Ms. Mar was no longer with the FCPC, and the FCPC specifically requested and invited the submission of this document submitted on Zachary RunningWolf's behalf, the packet should be updated to include this submission and include an item on the agenda to deliberate and take action on the issues raised in its contents. Releasing revised packets has already been done for almost half of the FCPC's uploads this year, and is clearly warranted in this case due to all of the above reasons and the importance of what is discussed in the declaration, which concerns the integrity of the FCPC as a whole and its legal duty to uphold BERA.

Please inform me of any updates concerning this material and/or the inclusion of this material in the packet and on the agenda at your earliest convenience.

Thanks,
Thomas Hodgman
RunningWolf Campaign Manager

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

From: **Runningwolf Campaign** <runningwolf4mayor@gmail.com>

Date: Thu, Nov 8, 2018 at 2:39 PM

Subject: Declaration to Berkeley's Fair Campaign Practices Commission Regarding Its Handling of Election Violations in Berkeley's 2016 Mayoral Election

To: Mar, Jessica E. <JMar@cityofberkeley.info>

Dear Ms. Mar,

It is my understanding that at last month's FCPC meeting, Zachary RunningWolf was invited to submit a statement to the FCPC regarding the decisions reached and procedures followed in the FCPC's investigation of Jesse Arreguin's 19 campaign finance violations (the 18 violations totaling \$3,388 and the SEIU violation totaling over \$8,000).

On behalf of Zachary RunningWolf's campaign, I have attached a document to this email detailing the various issues which require addressing concerning the aforementioned decisions reached and procedures followed. This is not a new complaint, but a reason that both of the prior complaints need to be re-opened as neither the decisions reached nor the procedures followed were in accordance with BERA or the facts at hand.

This needs to be addressed as soon as possible and placed on this month's agenda under both of the items in question. Both cases must be immediately re-opened and the facts presented therein as well as the statutes of BERA must be adequately addressed and incorporated into revised decisions which do not neglect the FCPC's duty to uphold BERA.

If this result is not speedily forthcoming, we will be pursuing a judicial review of the FCPC's handling of both cases as well as the decision to appoint Dean Metzger as the Chair of the Commission despite his refusal to recuse himself due to his conflict of interest. Please advise me as to how I can initiate such a judicial review if this material is not included in this month's agenda or if the FCPC does not take sufficient action to address all of the legal issues raised therein.

Sincerely,
Thomas Hodgman
RunningWolf Campaign Manager