



Fair Campaign Practices Commission
Open Government Commission

DRAFT MINUTES

November 21, 2024

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

Civic Center
2180 Milvia St.
Berkeley, CA 94704
Cypress Room

Secretary: Samuel Harvey

Members Present: Patrick O'Donnell, Jedidiah Tsang, Emmanuelle Soichet, Henry Isselbacher, Andrew Lazarus, Kitt Saginor

Also present: Samuel Harvey, Staff Secretary

1. **Call to Order**

Chair called the meeting to order at 6:36 p.m.

2. **Roll Call**

Roll call taken

3. **Land Acknowledgement.**

4. **Approval of agenda**

Motion to approve agenda (M/S/C: O'Donnell/Soichet; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: none; Absent: Ching, Blome.)

5. **Public Comment**

No speakers.

6. **Approval of minutes for October 17, 2024 FCPC-OGC Regular Meeting**

- a. Public comment: none
- b. Commission discussion and action

Motion to approve minutes (M/S/C: Isselbacher, Lazarus; Ayes: O'Donnell, Tsang, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: Soichet; Absent: Ching, Blome.)

Fair Campaign Practices Commission (FCPC) Agenda

7. **Reports**

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

8. **Report from negotiating subcommittee: Mike Chang for School Board; possible approval of stipulated agreement; discussion and possible action**

- a. Public comment: none
- b. Commission discussion and action

Motion to approve the stipulated agreement (M/S/C: Soichet/Lazarus; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus; Noes: none; Abstain: Saginor; Absent: Ching, Blome.)

9. **Complaint: Yes on Measure CC / No on Measure BB**

- a. Public comment: none
- b. Commission discussion and action

Motion to find probable cause on a late 460 disclosure and dismiss for being only a slight impact on the administration of BERA and the outcomes of any election and because further proceeding would be an inefficient use of resources. (M/S/C: Tsang/Lazarus; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: none; Absent: Ching, Blome.)

Motion to find probable cause on the Committee's failure to timely disclose a \$35,000 non-monetary contribution within the 24-hour deadline and filing that form 30 days late. (M/S/C: Isselbacher/O'Donnell; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: none; Absent: Ching, Blome.)

Motion to dismiss the complaint regarding failure to disclose a \$35,000 contribution as a "major funding" disclosure on two campaign websites and an online advertisement

(M/S/C: Saginor/Lazarus; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: none; Absent: Ching, Blome.)

Motion to dismiss complaint that the online PDF is a paid advertisement that violates BERA's "major funding" disclosure provisions (M/S/C: Tsang/Isselbacher; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: none; Absent: Ching, Blome.)

Motion to dismiss complaint that "Housing Provider" is not an appropriate name as not within the purview of BERA (M/S/C: Lazarus/ Isselbacher; Ayes: Tsang, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: O'Donnell, Soichet; Absent: Ching, Blome.)

Motion to find probable cause that BERA section 2.12.335.A was violated by inclusion of the incorrect Committee name on the Facebook ad (M/S/C: Saginor/Isselbacher; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: none; Absent: Ching, Blome.)

Motion to empanel an ad hoc subcommittee to pursue a negotiated settlement with the Committee taking into account the duration of the violations for which probable cause was found and direct staff to further investigate the duration and severity of the violations (M/S/C: Isselbacher/Tsang; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: none; Absent: Ching, Blome.)

Chair Saginor appointed Commissioners Isselbacher and Lazarus to this ad hoc subcommittee.

10. **Complaint: Berkeleyans for Effective Climate Action, No on GG**

- a. Public comment: none
- b. Commission discussion and action

Motion to dismiss the complaint. (M/S/C: Isselbacher/O'Donnell; Ayes: O'Donnell, Tsang, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: Soichet; Absent: Ching, Blome.)

11. **Enforcement referral regarding Andy Kelley for Rent Board 2020 Campaign**

- a. Public comment: none
- b. Commission discussion

12. **Enforcement referral regarding Campaign for Police Accountability**

- a. Public comment: none
- b. Commission discussion and action

Motion to direct staff to pursue contact with the Committee, to notify the Committee treasurer of our intent to consider administrative termination and request that any objection be submitted by a date set by the staff and direct the staff to make recommendations for further actions to be taken. (M/S/C: Soichet/Saginer; Ayes: O'Donnell, Tsang, Isselbacher, Lazarus, Saginer; Noes: none; Abstain: Soichet; Absent: Ching, Blome.)

13. **Enforcement referral regarding Campaign Rent Stabilization Board Commissioner Vanessa Danielle Marrero**

- a. Public comment: none
- b. Commission discussion and action

Motion to direct staff to communicate with office holder Vanessa Danielle Marrero, including by letter and by phone and to include in that communication that this matter will be on the Fair Campaign Practices Commission January agenda, and direct staff to report back at our next meeting. (M/S/C: O'Donnell/Isselbacher; Ayes: O'Donnell, Tsang, Isselbacher, Lazarus, Saginer; Noes: none; Abstain: Soichet; Absent: Ching, Blome.)

14. **Review and possible revision of Procedures for the Fair Campaign Practices Commission**

- a. Public comment: none
- b. Commission discussion

Open Government Commission (OGC) Agenda

15. **Reports**

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

16. **Presentation: Information about commissions on the web**

- a. Public comment: none
- b. Item deferred to future meeting

17. **Publicizing Commission work and vacancies**

- a. Public comment: none
- b. Commission discussion

18. **Commissioner stipends**

- a. Public comment: none
- b. Commission discussion and action

Motion to direct staff to request that the City Clerk update the stipend information in the Commissioners' Manual (M/S/C: Tsang/Soichet; Ayes: O'Donnell, Tsang, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: Soichet; Absent: Ching, Blome.)

19. **City Council Rules of Procedure and Order Revisions**

- a. Public comment: none
- b. Commission discussion

20. **Annual report regarding Public Records Act requests and other open government topics pursuant to to BMC § 2.06.190.C**

- a. Public comment: none
- b. Commission discussion

Joint FCPC-OGC Calendar

21. **Training presentation: Brown Act and procedural due process**

- a. Public comment: none
- b. Item deferred to future meeting

22. **Adjournment**

Motion to adjourn (M/S/C: Isselbacher/Tsang; Ayes: O'Donnell, Tsang, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: Soichet; Absent: Ching, Blome.)

Meeting adjourned at 9:18 p.m.