

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 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

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

Special Meeting
September 29, 2016
7:00 p.m.

Secretary: Savith Iyengar, Deputy City Attorney

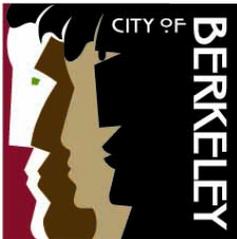
The Commission may act on any item on this agenda

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.
 - c. Report from loan subcommittee.
5. Approval of minutes for the July 21, 2016 meeting.
6. Staff report regarding BERA enforcement activities.
7. Adjournment.

Communications

One communication from Timothy Burroughs.

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 located at 2180 Milvia St., 4th Floor, Berkeley, CA.



Fair Campaign Practices Commission

MINUTES

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

Regular Meeting
July 21, 2016

Members Present: Brad Smith (Chair), Dean Metzger (Vice Chair), Mark McLean, Patrick O'Donnell, Dave Ritchie, Sherry Smith

Members Absent: Alex Mabanta (excused), Emma Soichet (excused)

Also Present: Savith Iyengar, Secretary/Deputy City Attorney

1. Call to Order

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

2. Roll Call

Roll call taken.

3. Public Comment (items not on agenda)

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

4. Reports

- a. Report from Chair.
- b. Report from Staff.
- c. Report from loan subcommittee.

5. Approval of minutes for the May 19, 2016 meeting

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

Motion to approve minutes (M/S/C: Metzger/O'Donnell; Ayes: B. Smith, Metzger, McLean, O'Donnell, Ritchie, S. Smith; Noes: None; Abstain: None; Absent: Mabanta (excused), Soichet).

6. Discussion and action regarding election of Vice Chair

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

Motion to elect Dean Metzger as Vice Chair (M/S/C: Metzger/McLean; Ayes: B. Smith, Metzger, McLean, O'Donnell, Ritchie, S. Smith; Noes: None; Abstain: None; Absent: Mabanta (excused), Soichet).

7. **Staff report regarding changes in mass mailings language**

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

Motion to adopt Regulation No. R2.12.325 as amended as follows:

- (1) *Adding, in its own paragraph after the words “in the mail” and before “Mass mailings may be filed,” the following language:*

The three copies of the mass mailing and the certification must be hand delivered or sent by guaranteed overnight delivery to comply with the requirement that they be filed with the City Clerk’s Office no later than one day after the date the mass mailing was first placed in the U.S. mail.

(M/S/C: Ritchie/S. Smith; Ayes: B. Smith, Metzger, McLean, O’Donnell, Ritchie, S. Smith; Noes: None; Abstain: None; Absent: Mabanta (excused), Soichet).

- (2) *Adding to the certification language, after the words “under penalty of perjury” and before the words “that 200 or more copies,” the phrase “under the laws of the State of California”* (M/S/C: O’Donnell/Ritchie; Ayes: B. Smith, Metzger, McLean, O’Donnell, Ritchie, S. Smith; Noes: None; Abstain: None; Absent: Mabanta (excused), Soichet).

Motion to defer consideration of penalties language for late filing and clarification of penalties for failure to file, including whether the regulation should reference Berkeley Municipal Code Section 2.12.485 or specify the monetary penalty in Regulation R2.12.325, until the next election cycle (M/S/C: O’Donnell/McLean; Ayes: B. Smith, Metzger, McLean, O’Donnell, Ritchie, S. Smith; Noes: None; Abstain: None; Absent: Mabanta (excused), Soichet).

8. **Discussion and action regarding loan subcommittee**

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

Motion to create ad hoc single purpose subcommittee consisting of Commissioners Soichet, Murray, Ritchie and Metzger (as interim chair) to examine the use of loan money in campaigns (M/S/C: S. Smith/O’Donnell; Ayes: B. Smith, Murray, Mabanta, McLean, O’Donnell, Ritchie, S. Smith; Noes: None; Abstain: None; Absent: Metzger (excused), Soichet (excused)).

9. **Staff report regarding change in procedure regarding Slate Mailer Organizations**

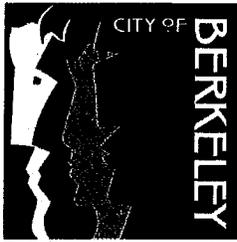
- a. Public comment: no speakers.
- b. Commission discussion and possible action.

No action taken.

10. **Adjournment**

Motion to adjourn (M/S/C: S. Smith/Ritchie; Ayes: B. Smith, Metzger, McLean, O’Donnell, Ritchie, S. Smith; Noes: None; Abstain: None; Absent: Mabanta (excused), Soichet).

The meeting adjourned at 7:44 p.m.



Fair Campaign Practices Commission

DATE: September 29, 2016
TO: FAIR CAMPAIGN PRACTICES COMMISSION
FROM: SAVITH IYENGAR, FCPC Secretary/Staff Counsel *SI 9/29/16*
SUBJECT: REPORT RE: BERA Enforcement Activities

The City Clerk's Office and Secretary to the Commission have reviewed all campaign statements filed with the City thus far, including City of Berkeley Statements of Organization, California Forms 410 (Statement of Organization of Recipient Committee), 460 (Recipient Committee Campaign Statement), 461 (Major Donor and Independent Expenditure Committee Campaign Statement), 470 (Officeholder and Candidate Campaign Statement – Short Form), 497 (Late Contribution Report), 501 (Candidate Intention Statement), and mass mailing certifications.

On September 19 and 20, 2016, the Commission Secretary sent twenty-four letters to candidate-controlled committees (twenty) and ballot measure committees (four) requiring amendments to campaign statements (Form 460). The Commission Secretary requested that committees respond to the letter by September 30, 2016. As committees respond, they are being advised to file amended campaign statements by October 6, 2016. The Commission Secretary will provide a more complete update regarding responses and amendments at the Commission's special meeting on September 29, 2016.

The Commission Secretary notes preliminarily that its investigation indicates the following potential BERA violations (number of committees affected in parenthesis):

- Contribution exceeding maximum permitted amount (two).
- Missing occupation and employer information (twenty-one).
- Missing or incorrect address information (eighteen).
- Refunded contributions listed incorrectly (seven).
- Incomplete contributor name (four).
- Failure to specify "PAC" and FCPC number after contributor name (three).
- Reimbursements listed as payments without identifying original payee (two).

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- Incorrect categorization of miscellaneous increases to cash (two).
- Incorrect committee name (one).
- Incorrect contributor total (one).
- Incorrectly listed nonmonetary contributions (one).
- Incorrect contributor/payees information (one).

The Commission Secretary will provide additional information at the Commission's September 29, 2016 special meeting.