

CITY OF OAKLAND

Privacy Advisory Commission

July 14th, 2016 5:00 PM

Oakland City Hall

Hearing Room 1

1 Frank H. Ogawa Plaza, 1st Floor

Meeting Agenda

Commission Members: District 1 Representative: Reem Suleiman, District 2 Representative: Currently Vacant, District 3 Representative: Brian M. Hofer, District 4 Representative: Lou Katz, District 5 Representative: Raymundo Jacquez III, District 6 Representative: Clint M. Johnson, District 7 Representative: Currently Vacant, Council At-Large Representative: Saied R. Karamooz, Mayoral Representative: Currently Vacant.

Each person wishing to speak on items must fill out a speaker's card. Persons addressing the Privacy Advisory Commission shall state their names and the organization they are representing, if any.

1. 5:00pm: Call to Order, determination of quorum, introduction of members
2. 5:15pm: Staff Overview of Oakland's Boards and Commissions and their Roles and Responsibilities
3. 5:25pm: Review the PAC's enabling legislation: Ordinance 13349 and the Scope of the Commission
4. 5:45pm: Selecting a Chair and Vice Chair (or Interim Chair and Vice Chair) of the Commission
5. 6:05pm: Discussion and (possible) adoption of Commission Bylaws
6. 6:20pm: Setting Meeting Dates, Times, and Location.
7. 6:30pm: Discussion of future agenda topics
8. 6:45pm: Open Forum
9. 7:00pm: Adjournment

DRAFT Oakland Privacy Advisory Commission Bylaws

ARTICLE I: Establishment and Governing Law

- 1) Name
Privacy Advisory Commission (PAC)

- 2) Authority, Statutory Requirements: and Other Laws and Polices

The Oakland City Council adopted Ordinance 13349 C.M.S. on January 19th, 2016 establishing the Privacy Advisory Commission, providing for the appointment of members thereof, and defining the duties and functions of said commission.

The Commission shall comply with all applicable laws, including, but not limited to, the City of Oakland Charter, the Establishing Ordinance, the Oakland Sunshine Ordinance (Ordinance 11957 C.M.S., adopted January 14, 1997), the Ralph M. Brown Act (Government Code sections 54950 et seq.), the Political Reform Act of 1974 (Government Code sections 81000 et seq.), the Public Records Act (Government Code sections 6250 et seq.), and the Oakland Conflict of Interest Code (Ordinance 11979 C.M.S., as amended). If any conflict exists between any of the foregoing laws and these bylaws, the applicable law shall control over the bylaws.

ARTICLE II: Duties, Functions, and Commissioner Appointments

- 1) Duties and Functions
The PAC shall fulfill duties and functions as set forth in Ordinance 13349 C.M.S Act which are as follows:

It shall be the duty and function of the Privacy Commission to:

- a. Provide advice and technical assistance to the City of Oakland on best practices to protect citizen privacy rights in connection with the City's purchase and use of surveillance equipment and other technology that collects or stores citizen data.
- b. Conduct meetings and use other public forums to collect and receive public input on the above subject matter.
- c. Draft for City Council consideration, model legislation relevant to the above subject matter, including a Surveillance Equipment Usage Ordinance.
- d. Review and make recommendations to the City Council regarding any proposed changes to the operations of the Domain Awareness Center ("DAC") and/or proposed changes to the City's Policy for Privacy and Data Retention for the Port

Domain Awareness Center (“DAC Policy”) as specified in Resolution 85638 C.M.S.

- e. Submit annual reports and recommendations to the City Council regarding: (1) the City’s use of surveillance equipment, and (2) whether new City surveillance equipment privacy and data retention policies should be developed or such existing policies be amended.
- f. Provide analyses to the City Council of pending federal, state and local legislation relevant to the City’s purchase and/or use of technology that collects, stores, transmits, handles or processes citizen data.

The Privacy Commission shall make reports, findings and recommendations either to the City Administrator or the City Council, as appropriate. An annual report will be presented in writing to the City Council. The Commission may submit recommendations to the City Council following submission to the City Administrator.

2) Commissioner Appointments

- a. The Commission shall consist of nine (9) members, at least six (6) of whom are Oakland residents. Pursuant to Section 601 of the Charter, members of the Commission shall be appointed by the Mayor subject to confirmation by the affirmative vote of five members of the Council. Each Councilperson may recommend to the Mayor his/her own selection for Commission member.
- b. Five (5) members shall constitute a quorum.
- c. Each commission member shall serve as a volunteer without pay.
- d. The members shall be appointed to overlapping terms of three (3) years beginning on March 15th of each year and ending on March 15th three years later, or until a successor is appointed and confirmed pursuant to Section 601 of the City Charter. An appointment to fill a vacancy shall be for the unexpired term only. To assure that terms overlap, appointments shall be as follows: three (3) initial members will serve a three-year initial term, three (3) initial members will serve two-year initial term, and the other three (3) initial members will serve a one-year initial term.
- e. In the event an appointment to fill a vacancy has not occurred by the expiration of a member’s term, that member may remain in a holdover capacity for up to one year only following the expiration of his or her term or until a replacement is appointed, whichever is earlier.
- f. No member of the Privacy Commission shall serve more than three (3) consecutive terms.

- g. All members of the Privacy Commission shall be persons who have an interest in privacy rights as demonstrated by work experience, civic participation, and/or political advocacy. No member may be an elected official.
- h. Members of the Privacy Commission shall represent the following criteria, with no more than two (2) members representing any one criteria and at least one from each criteria to the extent possible:
 - 1. an attorney, legal scholar, or activist with expertise in privacy, civil rights, or a representative of an organization with expertise in the same.
 - 2. a past or present member of member of law enforcement who has worked with surveillance equipment and other technology that collects or stores citizen data;
 - 3. an auditor or certified public accountant;
 - 4. a hardware, software, or encryption security professional
 - 5. A member of an organization which focuses on government transparency and openness.
- i. No member may have a financial interest, employment, or policy-making position in any commercial or for profit facility, research center, or other organization that sells surveillance equipment or profits from decisions made by the Commission.

3) Oath of Public Office

Acceptance of the Oath of Public Office constitutes a Commission member's sworn responsibility of public trust. Members are required to serve well and to faithfully discharge their duties and responsibilities diligently and consistent with the laws of the City of Oakland and all pertinent state and federal laws.

4) Rules, Regulations and Procedures; Voting Requirements

Except for the two-thirds vote requirement in Article IX hereof, all actions by the PAC shall be by a majority vote of those present at a meeting at which a quorum exists.

Rules, regulations, and procedures for the conduct of PAC business shall be established by a vote of the members.

The Commission must vote to adopt any motion or resolution.

5) Conflict of Interest

No member of the Commission shall cast a vote on or participate in a decision-making capacity on the provision of services by that member or any organization that the member directly represents, on any matter which would provide a direct financial benefit to such member or a member of his or her immediate family, or on any other matter which would result in the member violating any conflict of interest law or regulation.

ARTICLE III: Officers

Officers shall be a Chairperson and Vice Chairperson chosen from members of the PAC.

1) Chairperson

The Chairperson shall preside at all PAC meetings and shall submit such agenda, recommendations and information at such meetings as are reasonable and proper for the conduct of the business affairs and policies of the PAC. The Chairperson shall sign all documents necessary to carry out the business of the PAC.

2) Vice Chairperson

The Vice Chairperson shall assist the Chairperson as directed and shall assume all the obligations and authority of the Chairperson in the absence or recusal of the Chairperson.

3) Election of Officers

The Officers shall initially be elected by vote from among the members of the Commission at the Commission's first regular meeting after adoption of these bylaws, or as soon thereafter as possible.

4) Removal of Chairperson

An affirmative vote of the PAC members can remove any Officer from office.

5) Officers' Terms of Office

The Officers shall hold office for one year. Their terms shall expire one year and one meeting after their election. No person shall be elected as an Officer for longer than his or her PAC term of office.

6) Officer Vacancies

If the office of the Chairperson becomes vacant, the Vice Chairperson shall become Chairperson. If the office of the Vice Chairperson becomes vacant for any reason, the PAC shall vote to elect a successor from among the PAC members at the next regular meeting, and such office shall be held for the unexpired term of said office.

ARTICLE IV: Planning and Oversight Staff

1) City Administrator

The Commission shall receive staff support from the City Administrator's Office, as determined by the City Administrator.

2) Legal Advisor

The Oakland Office of the City Attorney ("OCA") is the Commission's legal advisor. The OCA shall provide the Commission with legal assistance as determined by the OCA. Any member of the Commission may consult informally with any OCA attorney assigned by the OCA to the Commission on any matter related to PAC business. However, a request from a PAC member for assistance from the PAC's assigned attorney requiring

significant legal research, a substantial amount of time and attention, or a written response, may be made only through the Commission Chairperson with the designated PAC staff member or by a vote of the PAC.

3) Commission Staff

Commission members may consult staff of the City Administrator's Office informally, but any request for substantial assistance or a written report must be authorized by a vote of the PAC.

4) Custodian of Records

Pursuant to section 20.020.240 of the Sunshine Ordinance, the Commission shall maintain a public records file that is accessible to the public during normal business hours. The City Clerk shall be the official custodian of these public records, which shall be maintained in the manner consistent with records kept by the City Clerk on behalf of all other standing Commissions.

- 5) If authorized by the City Administrator, a designated member of City staff shall act as Custodian of Records to the Commission. The Custodian of Records shall keep the records of the Commission, shall record all votes, and shall prepare minutes and keep a record of the meetings in a journal of the proceedings.

ARTICLE V: Ad Hoc Committees

1) Ad Hoc Committees

The Chairperson, at her or his discretion, may establish ad hoc committees to perform specific tasks. An ad hoc committee shall dissolve when the task is completed and the final report is given. Any ad hoc committee may not have more than 4 PAC members.

ARTICLE VI: Meetings

1) Quorum

Ordinance 13349 C.M.S. created quorum for the PAC as five (5) members. A quorum shall be called for prior to any official business being conducted at the meeting. If there is no quorum at that time, no official action may be taken at that meeting. In the event that a quorum is not established within thirty (30) minutes of the noticed start time of the meeting, the Chairperson, in her or his discretion, may cancel the meeting or may allow the meeting to take place without any official action being taken at the meeting without a quorum.

2) Voting

Each member of the Commission shall have one vote. Consistent with Article II, Section 5, a motion shall be passed or defeated by a simple majority of those members present and voting at a meeting where a quorum has been established.

3) Public Input

- (a) Public Input on Items Officially Noticed for the Agenda

At every regular meeting, members of the public shall have an opportunity to address the PAC on matters within the PAC's subject matter jurisdiction. Public input and comment on matters on the agenda, as well as public input and comment on matters not otherwise on the agenda, shall be made during the time set aside for public comment. Members of the public wishing to speak and who have filled out a speakers card, shall have two (2) minutes to speak unless the chairperson otherwise limits the total amount of time allocated for public discussion on particular issues and/or the time allocated for each individual speaker.

(b) **Public Input on Items Not Officially Noticed for the Agenda (Open Forum)**

Matters brought before the Commission at a regular meeting which were not placed on the agenda of the meeting shall not be acted upon or discussed by the PAC at that meeting unless action or discussion on such matters is permissible pursuant to the Brown Act and the Sunshine Ordinance. Those non-agenda items brought before the PAC which the PAC determines will require consideration and action and where action at that meeting is not so authorized shall be placed on the agenda for the next regular meeting.

(c) **Identification of Speaker**

Persons addressing the PAC shall be asked to state their names and the organization they represent, if any. They shall be asked to confine their remarks to the subject under discussion, unless they speak during the Open Forum portion of the agenda.

4) **Regular Meetings**

The Commission shall meet regularly on the _____ of each month, at the hour of ____ pm, in Oakland, California. In the event that the regular meeting date shall be a legal holiday, then any such regular meeting shall be rescheduled at least two meetings prior to the meeting for a business day thereafter that is not a legal holiday. A notice, agenda, and other necessary documents shall be delivered to the members, personally or by mail, at least seventy-two hours prior to the meeting.

5) **Notice and Conduct of Regular Meetings**

Notices and agendas of all regular PAC meetings requiring notice shall be posted in the City Clerk's Office and on an exterior bulletin board accessible twenty-four hours a day. Notice of regular meetings shall be posted at least seventy-two hours before the meeting. Action may only be taken on items for which notice was provided in compliance with the Sunshine Ordinance and the Brown Act.

6) **Minutes**

Minutes shall be taken at every PAC meeting. Minutes shall be prepared in writing by the Custodian of Records. Copies of the minutes of each PAC meeting shall be made available to each member of the PAC and the City. Approved minutes shall be filed in the official PAC file.

ARTICLE VII: Agenda Requirements

1) Agenda Preparation

The agenda is prepared through the joint effort of the Chairperson and PAC Staff, with appropriate legal review. At the outset of a PAC meeting, the Commission may remove items from the posted agenda, but may not add items to the posted agenda or otherwise modify it. Nothing in this Article VII shall change the requirements for agenda noticing and modification to the agenda as required by the Brown Act, Sunshine Ordinance or other applicable law.

ARTICLE VIII: Parliamentary Authority

1) Robert's Rules of Order

The business of the PAC shall be conducted, to the extent possible, in accordance with parliamentary rules as contained in Robert's Rules of Order, except as modified by these rules and in accordance with State open meeting laws and local open meeting laws, including, without limitation, the Brown Act, the Oakland Sunshine Ordinance, and the Establishing Ordinance. Failure of compliance with Robert's Rules of Order shall not constitute cause for invalidation of any PAC action of which a majority of PAC members clearly expressed approval.

2) Representation of the Privacy Advisory Commission

Any official representations on behalf of the PAC before the City Council or any other public body shall be made by a member of the PAC specifically so designated by vote of the PAC.

ARTICLE IX: Amendment of Bylaws

The Commission may adopt bylaws amendments at any regular meeting of the PAC by vote of two-thirds of the members present at which a quorum exists; provided such proposed amendments are circulated in writing to all PAC members at least ten (10) calendar days prior to such meeting, and three (3) calendar days' public notice shall be posted.

2015 DEC 17 PM 12:28
INTRODUCED BY COUNCIL MEMBER _____


CITY ATTORNEY'S OFFICE

AMENDED IN PUBLIC SAFETY COMMITTEE DECEMBER 14, 2015

OAKLAND CITY COUNCIL

ORDINANCE NO. 13349 C.M.S.

ORDINANCE ESTABLISHING THE PRIVACY ADVISORY COMMISSION, PROVIDING FOR THE APPOINTMENT OF MEMBERS THEREOF, AND DEFINING THE DUTIES AND FUNCTIONS OF SAID COMMISSION

WHEREAS, on June 2, 2015, City Council approved, in concept, the creation of a standing community advisory board on privacy issues, and further requested that City Administration prepare an ordinance establishing said commission; and

WHEREAS, Section 601 of the City Charter entitled "Boards and Commissions," reserves to the City Council the authority to create boards and commissions by ordinance, and to prescribe their function, duties, powers, jurisdiction and the number of board and commission members, their terms, compensation and reimbursements for expenses, if any; now, therefore

THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. ESTABLISHMENT

Pursuant to Section 601 of the Charter of the City of Oakland, there is hereby created an Oakland Privacy Advisory Commission (hereinafter referred to as the "Privacy Commission" or "Commission").

SECTION 2. DUTIES AND FUNCTIONS

It shall be the duty and function of the Privacy Commission to:

- a. Provide advice and technical assistance to the City of Oakland on best practices to protect citizen privacy rights in connection with the City's purchase and use of surveillance equipment and other technology that collects or stores citizen data.
- b. Conduct meetings and use other public forums to collect and receive public input on the above subject matter.
- c. Draft for City Council consideration, model legislation relevant to the above subject matter, including a Surveillance Equipment Usage Ordinance.

- d. Review and make recommendations to the City Council regarding any proposed changes to the operations of the Domain Awareness Center ("DAC") and/or proposed changes to the City's Policy for Privacy and Data Retention for the Domain Awareness Center ("DAC Policy") as specified in Resolution 85638 C.M.S.
- e. Submit annual reports and recommendations to the City Council regarding: (1) the City's use of surveillance equipment, and (2) whether new City surveillance equipment privacy and data retention policies should be developed or such existing policies be amended.
- f. Provide analyses to the City Council of pending federal, state and local legislation relevant to the City's purchase and/or use of technology that collects, stores, transmits, handles or processes citizen data.
- g. The Privacy Commission shall make reports, findings and recommendations either to the City Administrator or the City Council, as appropriate. An annual report will be presented in writing to the City Council. The Commission may submit recommendations to the City Council following submission to the City Administrator.

SECTION 3. MEMBERSHIP AND QUORUM

- a. The Commission shall consist of nine (9) members, at least six (6) of whom are Oakland residents. Pursuant to Section 601 of the Charter, members of the Commission shall be appointed by the Mayor subject to confirmation by the affirmative vote of five members of the Council. Each Councilperson ~~may recommend~~ shall nominate for to the Mayor's consideration his/her own recommendation selection for Commission member. Notwithstanding such recommendation, the Mayor retains full appointment authority pursuant to the Charter.
- b. Five (5) members shall constitute a quorum.
- c. Each commission member shall serve as a volunteer without pay.
- d. The members shall be appointed to overlapping terms of three (3) years beginning on March 15th of each year and ending on March 15th three years later, or until a successor is appointed and confirmed pursuant to Section 601 of the City Charter. An appointment to fill a vacancy shall be for the unexpired term only. To assure that terms overlap, appointments shall be as follows: three (3) initial members will serve a three-year initial term, three (3) initial members will serve a two-year initial term, and the other three (3) initial members will serve a one-year initial term.
- e. In the event an appointment to fill a vacancy has not occurred by the expiration of a member's term, that member may remain in a holdover capacity for up to one year only following the expiration of his or her term or until a replacement is appointed, whichever is earlier.

- f. No member of the Privacy Commission shall serve more than three (3) consecutive terms.
- g. All members of the Privacy Commission shall be persons who have an interest in privacy rights as demonstrated by work experience, civic participation, and/or political advocacy. No member may be an elected official. Members of the Privacy Commission ~~may~~ shall represent the following criteria, with no more than two (2) members representing any one criteria and at least one from each criteria to the extent possible:
 - 1. an attorney, legal scholar, or activist with expertise in privacy, civil rights, or a representative of an organization with expertise in the same ~~such as but not limited to the American Civil Liberties Union, the Electronic Frontier Foundation, and the National Lawyers Guild;~~
 - 2. a past or present member of member of law enforcement who has worked with surveillance equipment and other technology that collects or stores citizen data;
 - 3. an auditor or certified public accountant;
 - 4. a hardware, software, or encryption security professional;
 - 5. a member of an organization which focuses on government transparency and openness ~~such as but not limited to the League of Women Voters or Open Oakland~~ or an individual, such as a former government employee, with experience working on government transparency and openness.
- h. No member may have a financial interest, employment, or policy-making position in any commercial or for profit facility, research center, or other organization that sells surveillance equipment or profits from decisions made by the Commission.

SECTION 4. VACANCY AND REMOVAL

- a. A vacancy on the Privacy Commission will exist whenever a member dies, resigns, or is removed, or whenever an appointee fails to be confirmed by the Council within 60 days of appointment. Vacancies shall be filled for any unexpired term provided, however, that if the Mayor does not submit for confirmation a candidate to fill the vacancy within 90 days of the date the vacancy first occurred, the Council may fill the vacancy. If the Mayor does submit for confirmation a candidate to fill a vacancy within the 90-day time frame and the Council does not confirm the candidate, the 90-day period shall commence anew. For purposes of this Section, a seat filled by a holdover appointment will be considered vacant as of the expiration of the holdover's prior term of office.

- b. Pursuant to Charter Section 601, a member may be removed for cause, after a hearing, by the affirmative vote of at least six (6) Council members.

SECTION 5. COMMISSION GOVERNANCE

a. OFFICERS AND ELECTIONS

At the first regular meeting, and subsequently at the first regular meeting of each year, members of the Privacy Commission shall elect a chairperson and a vice chairperson

b. MEETINGS AND VOTING

The Privacy Commission shall meet at an established regular interval, day of the week, time and location suitable for its purpose. Such meetings shall be designated regular meetings. Other meetings scheduled for a time or place other than the regular day, time and location shall be designated special meetings. Written notice of special meetings shall be provided to the Privacy Commission members and all meetings of the Commission shall comport with the Ralph M. Brown Act and the City's "Sunshine Ordinance" (Chapter 2.20 of the Oakland Municipal Code).

The Privacy Commission shall, in consultation with the City Administrator, establish bylaws, rules and procedures for the conduct of its business by a majority vote of the members present. Voting shall be required for the adoption of any motion or resolution.

Any action by the Commission shall be approved by a majority of members present provided a quorum exists.

c. STAFF

Staff assistance may be provided to the Privacy Commission as determined by the City Administrator pursuant to his or her authority under the Charter to administer all affairs of the City under his or her jurisdiction.

SECTION 6. SEVERABILITY

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

SECTION 7. CODIFICATION

The City Clerk shall codify this ordinance upon approval of the code numbering as to form by the City Attorney.

SECTION 8. EFFECTIVE DATE

This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall be effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

JAN 19 2016

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, ~~REID~~ AND PRESIDENT GIBSON MCELHANEY - 7

NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - Reid - 1

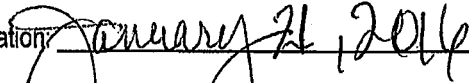
ATTEST



LATONDA SIMMONS

City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation



Introduction Date

JAN 05 2016

NOTICE AND DIGEST

AN ORDINANCE ESTABLISHING OAKLAND PRIVACY ADVISORY COMMISSION, PROVIDING FOR THE APPOINTMENT OF MEMBERS THEREOF, AND DEFINING THE DUTIES OF SAID COMMISSION

This Ordinance establishes the Oakland Privacy Advisory Commission in accordance with the requirements of Oakland City Charter section 601, which provides that the City Council shall create all advisory boards and commissions by Ordinance and that the Mayor shall appoint all board members subject to confirmation by the City Council.

This ordinance establishes the jurisdiction, duties, and powers of the Commission to provide advice and technical assistance on best practices to protect privacy concerns in the City's use of surveillance equipment and other technology that collects or stores citizen data. It further provides for the appointment, term, composition, membership qualifications, and the general rules and procedures for the Commission's meetings and deliberations.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2015 DEC 17 PM 12:28