



**City of Oakland
Public Ethics Commission**

For PEC Staff Use Only

Staff Initials: _____
Complaint #: _____

Complaint Form

The Public Ethics Commission can investigate complaints of violations of laws related to campaign finance, lobbyist registration, public records, open meetings, and governmental ethics laws. The Commission has limited authority to enforce public records, open meetings, and governmental ethics laws but may be able to issue findings and recommendations, or to take limited action, such as mediation, on these issues.

If you would like to submit a complaint that is within the Commission's jurisdiction, please complete this form, which becomes a public record available for inspection and copying by the public, along with any documents submitted with this form. A copy of this complaint will be made available to the persons identified in the allegations below. For more information about the Commission's complaint process, see the Commission's Complaint Procedures.

A Formal Complaint requires that you complete all of the information on this form, including your name, address, phone number, and signature verifying under penalty of perjury the information you provide in this complaint. The Commission must review and take action on the complaint and notify the complainant about the Commission's final action.

An Informal Complaint is a complaint that does not meet all the requirements of a Formal Complaint. Informal Complaints, such as anonymous complaints and complaints without all of the information required above do not require action or notification to the complainant upon final action. Commission staff reviews informal complaints and can determine whether the complaint should move forward to investigation. Informal tips can be submitted to Commission staff by phone, email, or fax.

Contact Information of Person Making Complaint (This information will be available to the public.)

Name: Gene Hazzard Street Address: 282 Adams St.#6
City: Oakland State: Ca. Zip Code: 94610
Email: genehazzard@gmail.com Phone: _____

Type of Alleged Violation. Please select from below which law you allege has been violated:

- The Oakland Sunshine Ordinance, California Public Records Act, or Ralph M. Brown (open meetings) Act
- Oakland Campaign Reform Act
- Oakland Limited Public Financing Act
- Oakland Lobbyist Registration Act
- Oakland False Endorsement in Campaign Literature Act
- Oakland Government Ethics Act
- Not sure which specific law, ordinance or regulations apply

Description of Violation. Please complete the lines below or attach a handwritten or typed attachment that provides the following details: If you run out of space, please attach handwritten or typed pages that provide the following details:

- **Name of the person or persons you are alleging committed a violation.** Please include any known address, phone number, email address, title, employment address, etc.:

The Public Works Department and City Council. Public Hearing on April 14, 2026 and Continued matter at the May 5, 2026 Public

Hearing regarding the Protected Tree Ordinance 12.36 /Property Owners Matthew Bernard& Lynn Warner. On April 14, 2026 this matter

in a **TIE* vote which failed. President Kevin Jenkins continued the matter to May 5, 2026 violating the Brown Act[see attached

- **The facts of the alleged violation.** Please include the date and location of the alleged violation, if known:

Document Government Code sec. 54954.2(a)(1) An unlawful and illegal Motion for Reconsideration was offered by Councilmember

Noel Gallo which passed by a vote of 5 ayes[Gallo, Ramachadran, Unger, Wang and President Jenkins] 3 Noes[Brown, Fife and Houston

which imposed a \$915,000.00 Fine on Warner and Bernard for alleged violation of the Protected Tree Ordinance 12.3

- **The names, addresses, and phone numbers of any witnesses** who were involved and/or can provide additional information, if known:

There was a failkure of the Parliamentarian to properly advised the Council they could not entertained a Continued Matter from April 14, 2026

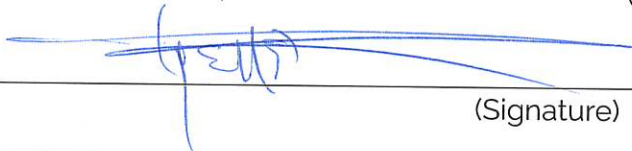
that ended in a [TIE] in addition this matter was not properly Agendized requiring a 72 hour Notice pursuant to the Brown Act

- Additional information or documentation that might aid in the investigation of the alleged violation. Please include copies of such documentation and list them here.

SEE ATTACHED DOCUMENT PURSUANT TO the effect of a tie vote in most california Jurisdiction, a tie vote means the Motion DIES

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on May 14, 2026 at Oakland, California
(Date) (City, State)


(Signature)

Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov

Mail: Public Ethics Commission
1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec

1. The Effect of a Tie Vote In most California jurisdictions, a tie vote means the motion fails

It results in no action being taken.

- Case Law: In *Gralow v. City of Glendale* (1930) 108 Cal.App. 460,:

The court supported the principle that where a majority is required, a tie vote is effectively a denial of the motion.

Motion for Reconsideration: The Brown Act Conflict The Brown Act generally prohibits a legislative body from taking action on any item not appearing on the posted agenda at least 72 hours prior to a regular meeting (Gov. Code § 54954.2(a)(1)).

If a matter "died" at Meeting A, and the council wishes to bring it back at Meeting B: • The Agendized Requirement: A "Motion for Reconsideration" is an "item of business." If the **specific subject matter of the original motion was not listed on the agenda for Meeting B, the council cannot take action on it.**

- The Exception: Under Gov. Code § 54954.2(b), action can be taken on a non-agendized item only under narrow circumstances (e.g., emergency, or a 2/3 vote finding that there is a "need to take immediate action" and the need arose

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after the agenda was posted). A tie vote at a previous meeting rarely qualifies as a "subsequent need" for immediate action.

3. Reconsideration vs. New Motion Parliamentary rules (like Robert's Rules of Order) often distinguish between a "Motion to Reconsider" and simply making the same motion again at a later meeting. •

Motion to Reconsider: Usually must be made by a member of the prevailing side (in a tie, the "No" side) and often must be made at the same meeting or the very next day.

If the council's local rules allow a Motion to Reconsider at a subsequent meeting, it still must be agendized to satisfy the Brown Act.

• Case Law on Notice: In Cohan v. City of Thousand Oaks (1994) 30 Cal.App.4th 547 :

The court held that a City Council violated the Brown Act when it "waived" its own rules to appeal a planning commission decision without proper notice to the affected parties. This underscores that local procedural maneuvers cannot override state transparency laws.

4. Consequences of Violation If a council takes action on a non-agendized Motion for Reconsideration:

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1. Cease and Desist: Interested parties can submit a "demand to cure or correct" under Gov. Code § 54960.1.

***** 2. Voidability: A court can declare the action null and void if the Brown Act violation was substantial and prejudicial*****