



August 23, 2021

Commissioners Tilos, Chen, LoPilato, Reid and Shabazz,

The League of Women Voters of Alameda values transparency and participation in government. We're writing to you today in the hope that our input will help advance such transparency and participation.

An agenda's "order of business" at city meetings separates "regular agenda" items from "communications." Regular agenda items routinely include a staff report with a recommendation for a course of action to be taken. Communications, on the other hand, are usually announcements.

City Council members can introduce new items to their agenda via a referral process in which the council decides if the new item warrants placement on the regular agenda of a future meeting with a staff report and recommended action.

The Open Government Commission's current bylaws grant the commission a fast-track decision-making process that exceeds that of the City Council. Section VI, subdivision (b) of the commission's bylaws conflates regular agenda items with communications. That section states, "Any Commission Member may place an item on any regular or special agenda under Commissioner Communications for discussion or action by the Commission." The current bylaws also allow the commission to act upon "communications" without any description sufficient to inform the commission or the public of the nature of the issue—a practice not allowed under City Council referrals.

On July 19, 2021, the Open Government Commission discussed and acted upon items listed under "communications." Specifically, the commission voted unanimously to send advisement letters to the City Council, supporting remote participation at all city meetings and conducting an equity survey of all boards and commissions.

While the communications on July 19 did include descriptive information, the bylaws do not require such information. This appears to be at odds with the intent of Sunshine Ordinance section 2-91.5, subdivision (f), which states: "No action or discussion shall be undertaken on

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any item not appearing on the posted agenda, except that members of a policy body may respond to statements made or questions posed by persons exercising their public testimony rights, to the extent of asking a question for clarification, providing a reference to staff or other resources for factual information, or requesting staff to report back to the body at a subsequent meeting concerning the matter raised by such testimony.”

The League of Women Voters of Alameda filed a timely Sunshine Ordinance complaint on August 2, saying that the public does not expect formal action to be taken under “communications” and asking that corrective measures be taken for future meetings. The League asked that the city rectify the inconsistency in the meaning of the term “communications” as it relates to conduct at public meetings. It should not mean one thing at City Council meetings and something else at board and commission meetings. The League believes that the remedy is to adopt a referral process and eliminate the inconsistent provision allowing action to be taken under communications.

The city attorney has advised the League that there is no one to hear our complaint because it was against the Open Government Commission itself. She suggested we take our concerns directly to the commission through public comment. We oblige and ask the Open Government Commission to revisit its bylaws to ensure that city meetings are conducted consistently so that the public knows what to expect. We also ask the commission to consider how complaints against it should be handled.

Thank you for your consideration.

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Anne McKereghan, President
League of Women Voters Alameda

Cc: Elizabeth MacKenzie, Chief Assistant City Attorney
Lara Weisiger, City Clerk