

**CITY OF ALAMEDA
OPEN GOVERNMENT COMMISSION
BYLAWS**

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I. GENERAL PROVISIONS

Commented [KNL1]: This red-lined copy contains Commissioner LoPilato's initial proposals for revisions to the Bylaws, many of which were discussed at the Commission's July 2021 meeting. This version also incorporates a minor clarifying edit to Section VIII (A) (2) (a), which was discussed in the 9/20/21 OGC meeting. For ease of review, additions are underlined in red, and deletions are noted in margin bubbles. Formatting revisions (indenting, bold, etc.) are not noted in this version to allow for a cleaner view.

A. These Bylaws shall be known as "Bylaws of the Open Government Commission, City of Alameda." A copy of these Bylaws and amendments thereto shall be filed in the Office of the City Clerk for examination by the public.

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B. These Bylaws, and any revisions or amendments thereto, shall be effective on the date of the adoption hereof and shall govern the conduct of the Open Government Commission (OGC).

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C. These Bylaws may be amended hereafter by a majority vote of the OGC except for the rules of membership (Section III) and purpose of the commission (Section II), which require City Council action.

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II. PURPOSE OF THE COMMISSION

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The purpose, scope, duties and authority of the OGC was approved by the City Council at the Council meeting on November 1, 2011. Generally, the commission shall enforce the Sunshine Ordinance. The OGC shall advise the City Council on appropriate ways in which to implement the Sunshine Ordinance; develop goals to ensure practical and timely implementation of the Sunshine Ordinance; propose to the City Council amendments to the Sunshine Ordinance; report in writing to the City Council at least once annually on any practical or policy problems encountered in the administration of the Sunshine Ordinance; from time to time as it sees fit, issue public reports evaluating compliance with the Sunshine Ordinance by the City or any Department, Office, or Official thereof. In addition, the Commission shall review public notices to ensure conformance with the Sunshine Ordinance and work to improve publicly accessible information and databases to ensure consistency, equity, timing, and extent of noticing for meetings and other matters of public interest; periodically review the Public Records Index; and publish an annual report on the City's website.

Commented [KNL2]: NOTE: This language is similar to that in the Boards and Commissions Handbook, but it is not included in the statutory language re: the Commission's duties. If there is concern about future Commissioners believing this is within the OGC's purview, it may need to be removed from this section. (However, per section I (C) above, we do not have the authority to make that edit.)

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III. MEMBERSHIP

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A. Appointment and Term of Office. The Commission shall consist of five (5) members, full-time City residents. Each member of the City Council will appoint an Alameda resident to serve on the Commission for a term that is concurrent and linked with the service of the appointing City Councilmember, but in no event shall exceed four years. Should the appointing City Councilmember term out of office, resign, be removed or otherwise retire from office, the appointment of his or her appointee on the Open Government Commission shall also end. All

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members must have experience and/or demonstrated interest in the issues of citizen access and participation in local government.

B. Maintenance of Membership. Persons appointed members shall continue to serve except for:

- a. Expiration of their term and appointment of their successor.
- b. Voluntary resignation.
- c. Failure to attend 75% of meetings held during any 12 month period, whether excused or not excused.
- d. Members who are no longer residents of the City.

In accordance with the above, Chair is authorized to communicate with individual members whose absences exceed the 75% standard to seek their resignation if they cannot attend the prescribed number of meetings and, if unsuccessful, to remind them that one subsequent missed meeting will mean an automatic dismissal from the Commission.

IV. OFFICERS

A. The officers of the Commission shall be:

Chair: who shall preside at all meetings of the Commission, call special meetings, appoint committees, and perform other proper duties of a presiding officer. Except as otherwise authorized by the Commission, the Chair shall sign all correspondence, reports and other instruments approved by the Commission and perform other activities as directed by a majority of the Commission.

Vice Chair: who shall perform the duties of the Chair in the absence or incapacity of the Chair; and in case of the resignation or other permanent absence of the Chair, the Vice Chair shall perform such duties as are imposed on the Chair until such time as the Commission shall select a new chair.

Secretary: who shall keep a written record of all business transacted by the Commission, notify members of meetings, maintain the official records of the Commission, and perform such other duties as the Commission may direct.

B. Chair and Vice Chair. The Chair and Vice Chair shall be elected by the Commission from its membership at the first meeting after January 1 of each year when the Commission is fully constituted. The Chair and Vice Chair shall typically only serve in each role for a period of 1 year, but there is no prohibition on re-election. Commissioners are encouraged to consider factors like length of service on the Commission, organizational skills, interest in a leadership role,

subject matter familiarity, ethics and leadership skills, and other relevant qualifications when selecting the Chair and Vice Chair. The Chair and Vice Chair shall familiarize themselves with Rosenberg's Rules of Order and these Bylaws prior to chairing any meetings in order to ensure an efficient meeting flow.

Deleted: The City Clerk, or designee, shall serve as the Secretary to the OGC.

C. Secretary. The Secretary of the Commission shall: (a) supply the Commissioners with such information and make such recommendation as deemed necessary to carry out the purposes of the Commission and to properly administer its affairs; and (b) keep the records of the Commission. The City Clerk, or designee, shall serve as the Secretary to the Commission.

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D. Additional Duties. The officers of the Commission shall perform such other duties and functions as may from time to time be required by the Commission.

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V. MEETINGS

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A. Regular Meetings.

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The Commission shall meet semi-annually, or as needed based on receipt of an alleged complaint at 7:00 p.m. on the first Monday of the month. When the meeting falls on a holiday, the Secretary may schedule an alternate date consistent with procedures for Special Meetings or defer to the subsequent meeting date. In compliance with the Sunshine Ordinance and the Brown Act, all meetings shall be open and public. An agenda will be prepared and posted seven (7) days before a meeting.

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B. Special Meetings.

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Special meetings may be called at any time by the Chair or by a majority of the Commissioners, by delivering personally or by mail written notice to each Commissioner and the local media who have requested written notice of special meetings in writing. The Secretary shall poll Commissioners and attempt to arrange a date and time convenient to all Commissioners. If all Commissioners agree to date and time of a special meeting, the public will be given a minimum of seven (7) days before the time of such meeting as specified in the notice, consistent with the Sunshine Ordinance and Brown Act.

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C. Meeting Location.

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Meetings shall be held in the City Hall Council Chambers or other appropriate location (including virtual meetings when authorized, e.g. on Zoom). When the City Hall Council Chambers are unavailable and in exceptional circumstances, the Commission may change this meeting location by notice on its agenda.

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D. Adjournment.

(1) No new items will begin after 10:30 p.m. unless a supermajority of the Commission votes to allow the items to be heard. Announcements and communications may continue to be heard after 10:30 p.m. whether or not a supermajority of the Commission has voted to extend the meeting.

(2) A motion is required to continue a meeting past 11:00 p.m. If the Commissioners extend three meetings in a row past 11:00 p.m., the Commissioners shall also be required, as a part of the motion to extend the meeting, to increase the number of regular meetings of the Commission to accomplish the business before the Commission before 11:00 p.m.

(3) If two or more meetings are adjourned prior to the Staff Update, Commissioner Agenda Requests, or Commissioner Communications items being heard, the Commission is encouraged to review potential revisions to these Bylaws to adjust the Order of Business on Commission agendas.

E. Communications and Work Between Meetings

Commissioners must follow the requirements of the Brown Act and Sunshine Ordinance when discussing or deliberating upon any item within the purview of the Commission. However, Commissioners are encouraged to individually raise any questions to Staff that may be appropriate for resolution by Staff before meetings.

From time to time, the Commission may also establish subcommittees or appoint an individual Commissioner to move forward with Commission business between meetings. For example, the Commission may opt to form a Subcommittee to Prepare the Commission's Annual Report on Practical and Policy Problems Encountered In Administration of the Sunshine Ordinance to ensure that work on the report is carried forward between meetings.

To the extent that matters directly pertinent to the Commission arise before other policy bodies (e.g. City Council), Staff is encouraged to advise the Commission of such matters, even if such communication would happen between meetings. Commissioners must remain mindful of Brown Act and Sunshine Ordinance requirements before engaging in any discussion of such matters between meetings.

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VI. AGENDA

A. Order of Business:

- 1. Roll Call
- 2. Non-Agenda Public Comment (first 15 minutes)
- 3. Complaint Hearings
- 4. Regular Agenda Items
- 5. Staff Update
- 6. Commissioner Agenda Requests
- 7. Commissioner Communications
- 8. Non-Agenda Public Comment
- 9. Adjournment

B. Summary of Agenda Sections

1. Roll Call.

This section of the agenda allows the Chair and Secretary to identify present and absent Commissioners and confirm a quorum.

2. Non-Agenda Public Comment.

The Open Government Commission is committed to serving the community and furthering the Sunshine Ordinance's goals of ensuring the public "has timely access to information, opportunities to address the various legislative bodies prior to decisions being made, and easy and timely access to all public records." (Alameda Municipal Code § 2-90.1.) Subject to specified time limits, members of the public are therefore invited to speak during Non-Agenda Public Comment to share with the Commission any information or concerns they may have about the City's implementation of the Sunshine Ordinance. Public comment received by the Commission during this agenda section may inform the Commission's reporting to City Council on practical and policy problems encountered in the implementation of the Sunshine Ordinance.

3. Complaint Hearings.

This section of the agenda shall include hearings on any Sunshine Ordinance complaints filed pursuant to Alameda Municipal Code section 2-93.2. The procedures for complaint hearings can be found at [redacted]

4. Regular Agenda Items.

This section of the agenda shall include standard Commission business. Typically, this section will commence with review of the minutes of the prior meeting to allow Commissioners an opportunity to request technical corrections to the draft prepared by the City Clerk's office to ensure an accurate record.

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Commented [KNL3]: As noted in the accompanying Report for the September 2021 OGC Meeting, specifying (and broadcasting) the OGC's commitment to hearing from the community during this section feels significant to ensure there is ample space for members of the public to share about their experiences or concerns regarding Sunshine Ordinance implementation outside the context of the formal complaint process and regular agenda items.

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5. Staff Update.

This section of the agenda shall include any updates from the City employees staffing the Commission on items that directly pertain to the Open Government Commission which do not require a decision or action by the Commission. When Staff is aware of matters pertinent to the Commission being raised before other policy bodies (e.g. City Council), Staff is encouraged to provide notice to the Commission during the Staff Update section, with the exception of time-sensitive matters that may require a between-meeting communication.

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6. Commissioner Agenda Requests.

This section of the agenda shall include requests by Commissioners to place a new topic or item on a future meeting agenda. If the item is time sensitive and sufficiently noticed (see below), Commissioners may take dispositive action on items in this section.

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Commented [KNL4]: Notably, the Sunshine Ordinance requires an opportunity for non-agenda public comment "before undertaking regular business and again at the end of the meeting." (AMC section 2-91.15(a).) Accordingly, I've added a second Non-Agenda Public Comment section to ensure our meeting structure complies with the Ordinance. It can serve as "overflow" space if the initial comment period needs to be truncated at 15 minutes to allow regular business to commence.

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7. Commissioner Communications.

This section of the agenda shall typically include updates from Commissioners about events or issues in the community pertinent to the Commission's work. Commissioners must avoid discussion or deliberation on non-agendized items in this section.

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8. Non-Agenda Public Comment

This section of the agenda shall include any overflow non-agenda public comment not heard at the beginning of the meeting.

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9. Adjournment.

This section of the agenda allows the Chair to close the meeting.

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C. Placement of items on meeting agenda. City Staff or City Council may place an item on the meeting agenda by working directly with the Secretary. Additionally, during the "Commissioner Agenda Requests" section of the meeting, any Commissioner may request that the full Commission take a vote to place an item on a future agenda for deliberation and action. Requests that receive a simple majority vote shall be placed on the subsequent meeting agenda (or other future meeting, as specified in the prevailing motion).

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For time-sensitive matters which may require dispositive action upon first introduction, Commissioner Agenda Requests, must be received, in writing, by the Secretary at least ten (10) working days prior to the scheduled meeting date. Legal holidays and weekends will not be considered regular working days. In these time-sensitive instances, the

Commented [KNL5]: Open to City Clerk input on whether this original language/timeframe for submission should be modified.

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Agenda shall include all substantive materials necessary for action to be taken, and shall clearly indicate for the public that action may be taken on that specific item in the Commissioner Agenda Requests section.

At the first Commission meeting of each calendar year, the Commission may opt to set a schedule for upcoming agenda items to ensure the statutorily-outlined duties of the Commission are fulfilled in a timely manner.

D. Public Comment. Public comment shall not be used to elicit a debate, and speakers shall avoid personal attacks of members of the Commission, City Council, other policy bodies, staff or the public.

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VII. MINUTES

A. General Policy Statement on Minutes of Meeting.

The Secretary of the Commission shall record the minutes for each regular and special meeting of the Commission. The minutes shall state the:

- Time the meeting was called to order;
- Names of the Commissioners attending the meeting;
- Roll call vote on each matter considered at the meeting;
- Time the Commission began and ended any closed session;
- Names of the Commissioners and the names and titles, where applicable, of any other persons attending any closed session;
- List of those members of the public who spoke on each matter if the speakers identified themselves, and whether such speakers supported or opposed the matter;
- Brief summary of each person's statement during the public comment period for each agenda item;
- Time the meeting was adjourned.

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Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes.

Draft minutes of each meeting shall be available for inspection and copying upon request no later than ten working days after the meeting.

B. Method of Documentation.

In general, the minutes will be summary only, and not verbatim recollection of all discussions. However, any Commissioner may request through the presiding officer, the privilege of having a written abstract of said Commissioner's statement on any subject under consideration by the Commission entered in the minutes. If the Commission consents thereto, such statement shall be entered in the minutes.

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VIII. RULES OF ORDER AND GOVERNING PROCEDURES

A. Regular Agenda Items (Non-Adjudicatory Matters)

1. Rosenberg's Rules of Order

For regular agenda items coming before the Commission (non-adjudicatory matters), the Commission adopts Rosenberg's Rules of Order, with the following exceptions and additions included below.

A copy of Rosenberg's Rules of Order shall be provided to all incoming Commissioners upon appointment and any member of the public upon request to the Commission or City Clerk.

The Commission's use of Rosenberg's Rules of Order may be suspended for a specific purpose upon a supermajority vote of the Commission. When rules are suspended, the vote to do so should clearly state the purpose for suspending the rules and the scope of items to which the suspension applies.

2. Time Limits and Related Procedural Matters

a. Commissioner Deliberations and Communications

Each Commissioner may ask questions and deliberate for up to nine (9) minutes per regular agenda item. Each Commissioner may ask questions and deliberate for up to five (5) minutes on Commissioner Agenda Requests, and may make statements for up to five (5) minutes during Commissioner Communications. Procedural discussions and clarifications are not timed. These time limits may be waived by a majority vote of the Commission, except in the context of Sunshine Ordinance Complaint Hearings.

b. Opening Presentation by Individual or Organization Sponsoring a Regular Agenda Item

All opening presentations by the sponsor of a regular agenda item shall be limited to ten (10) minutes or less. This time limitation applies regardless of whether the agenda item sponsor is Staff, a Commissioner, a subcommittee of Commissioners, or other individual or organization. The ten (10) minute time limitation may be waived, at any time before or during the presentation, by a majority vote of the Commission

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(which may include the item-sponsoring Commissioner, where applicable).

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c. Presentations by Commissioners for Commissioner Agenda Requests

Commissioner presentations accompanying an Agenda Request shall be limited to five (5) minutes or less. The five (5) minute time limitation may be waived, at any time before or during the presentation, by a majority vote of the Commission (which may include the presenting Commissioner).

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d. Public Comment on Non-Agenda and Agenda Matters

Anyone wishing to speak on matters not on the agenda may do so under Non-Agenda Public Comment. The meeting agenda shall provide up to fifteen (15) minutes for this use at the beginning of the meeting. Any speakers not called during the initial fifteen (15) minutes will be called under the later scheduled non-agenda public comment.

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Anyone wishing to speak on agendized items may do so during the public comment period at the time the agenda item is called.

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All speakers, under the Non-Agenda Public Comment section or those speaking on a specific agenda item, shall limit public comments to three (3) minutes or less. Speakers may comment only once on the same topic. No speaker may cede time to another. Written correspondence may also be submitted to the Secretary (City Clerk) in lieu of, or in addition to, oral public comment.

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e. Trainings And Workshops

Trainings and workshops addressing one topic – e.g. Sunshine Ordinance Trainings – shall not be subject to the time limits described herein.

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3. Additional Definitions and Clarifications

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The following additional definitions and rules shall clarify and govern the proceedings and order of business of the Commission:

A. Motions. The acts of the Commission shall be expressed by motion. To the extent possible, the Chair shall invite

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Commissioners to make a motion early in the discussion of an item to provide a framework for the deliberations. No motion shall have any validity or effect unless passed by the affirmative votes of a majority of the members. A tie vote is a negative decision of the Commission. All motions except for a point of order shall require a second in order for a vote to be called.

B. Conflict of Interest and Recusals. In situations where there is a conflict of interest and a member of the Commission is required to abstain from voting on the item and participating in the decision-making process, the following procedures shall be followed:

1. The Commissioner shall declare the conflict of interest.
2. State the basis of the conflict of interest.
3. Do not discuss or vote on the matter.
4. Leave the room until the item is completed.

C. Statement of Position. When a motion to call for question or table is adopted, each Commissioner may briefly state his/her position on the matter before roll call or call for the next item of business.

D. Privilege of Closing Deliberation. The Commissioner moving the adoption of a motion shall have the privilege of closing the deliberations or making the final statement.

E. Division of Question. If the question contains two (2) or more divisible propositions, the presiding officer may, and upon request of a Commissioner shall, divide the same.

F. Miscellaneous. All other matters not covered by these rules shall be decided by a majority of the Commission.

B. Procedures for Sunshine Ordinance Complaints (Adjudicatory Matters)

The Complaint Procedures set forth at [REDACTED] are hereby incorporated by reference into these Bylaws and shall govern the procedure for Commission hearings on Sunshine Ordinance Complaints. A copy of the Complaint Procedures shall be provided to all incoming Commissioners upon appointment and any member of the public upon request to the Commission or City Clerk.

IX ATTENDANCE

It shall be the responsibility of each Commissioner to notify the Secretary, who shall thereupon notify the Chair, of an inability to attend a scheduled Commission meeting.

Commented [KNL7]: NOTE: Rosenberg's Rules of Order leave it to the Chair's discretion whether a "second" is required. However, Rosenberg's also requires that motions be made PRIOR to discussion and deliberation on the item, which does not seem to be strictly enforced in most bodies and likely won't be here. Requiring a "second" in order to move forward to a full vote seems like a good way to balance some fluidity in deliberations without taking a bunch of unnecessary, unsupported votes.

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X. PREEMPTION

The applicable City of Alameda's policies, resolutions and ordinances and state and federal laws shall prevail where a conflict exists between any of them and these Bylaws.

XI. ADDITIONAL RESOURCES

- Sunshine Ordinance
- Alameda Municipal Code Section regarding Open Government Commission Duties
- Rosenberg's Rules of Order
- Sunshine Ordinance Public Complaint Procedure (once revisions are finalized)
- Written Training Materials
 - o Boards and Commissions Handbook
 - o Code of Conduct
 - o [Redacted]
 - o [Redacted]

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Commented [KNL9]: Might be helpful for Staff to create an Alameda-branded one-pager on Rosenberg's Rules of Order similar to the document from South Robertson Neighborhood Council that was utilized in the initial discussions of encouraging City Council to adopt Rosenberg's Rules and also included in the July 2021 OGC Agenda Packet on this topic.

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Page 10: [3] Commented [KNL8] Krystal LoPilato 8/25/21 11:16:00 AM

Whereas many other parts of the original Bylaws are duplicative with Rosenberg's Rules of Order and can therefore be removed, I did not see this noted in Rosenberg's and think it may be beneficial for this Commission.

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