

revisions to the proposed decision attached to the agenda report to finalize their decision.

On January 15, 2019, given the Commission's decision and advice of the City Attorney's Office, staff agendized the introduction of two ordinances that tracked the language of Ordinance Nos. 3227 and 3228.

On January 25, 2019, Ms. Chen filed the current complaint ("Chen II"). Ms. Chen alleges two violations. First, she contends a violation of subdivision (b) of section 2-93.2(b) of the Sunshine Ordinance occurred because staff "did not include the formal written decision of the Open Government Commission as an exhibit. . . [to the January 15, 2019 agenda item 6-B]." Second, she contends a violation of subdivision (b) of section 2-91.5 of the Sunshine Ordinance occurred because the agenda description allegedly "did not adequately inform the general public that, if the item was defeated, the council's vote would be meaningless."

#### Decision

There was a violation of sections 2-93.2(b) and 2-91.5 of the Alameda Municipal Code because the Commission's written decision in Case no 18-02 was not part of the City Council agenda materials for its January 15, 2019 meeting and because the agenda title for item 6-B on the Council's January 15, 2019 agenda would not have informed a person of average intelligence and education that if the City Council took no action on the item, that the ordinances in question (previously decreed null and void by this Commission) would remain in full force and effect. In other words, a reasonable person would have been confused about the potential impact of approving, or not approving, item 6-B. The Sunshine Ordinance requires greater transparency to the citizenry than what occurred in this case.

The provisions of Ordinance Nos. 3227 and 3228 should be re-introduced, with the Commission's decisions concerning this item included in the agenda materials, and with the agenda title providing clarity concerning the outcome if such provisions are or are not re-introduced.

Dated: February 5, 2019

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Heather Little, Chair

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[NOT PRESENT]

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Mike Henneberry, Member

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Bryan Schwartz, Member

  
Rasheed Shabazz, Member

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Ruben Tilos, Member