

Hon. Wynne Carvill, Presiding Judge
Alameda County Superior Court
1225 Fallon Street, Department One
Oakland, CA 94612

Re: City of Alameda Responses to the 2018-19 Alameda County Grand Jury Final Report

Dear Judge Carvill,

Thank you for providing the City of Alameda with the opportunity to respond to the following Findings and Recommendations in the 2018-19 Alameda County Grand Jury Report regarding Alameda City Council Interference.

Responses to Findings 19-1 through 19-4

Finding 19-1: The City of Alameda's failure to provide Councilmembers with adequate training upon first being elected to City Council as well as annual training on governance helped contribute to inappropriate interference in the fire chief hiring process.

Option 1:

Response: **Agree**

While the City of Alameda currently provides a number of training opportunities to elected officials, additional training could provide elected officials with additional important information. Staff is committed to doing research and analysis on different components of additional training opportunities.

Option 2:

Response: **Partially Disagree**

The City of Alameda currently provides policy information upon request to candidates running for office. Once elected to office, the City presents elected officials a series of information, including the Sunshine Ordinance, a training video on the Sunshine Ordinance, a link to bi-annual ethics training required by law, and a summary of the Sunshine Ordinance and rules of order. In addition, a hard copy of the Municipal Code is available in each Councilmember's office and a hard copy of the City Charter is offered to all Councilmembers. The City also encourages all newly elected officials to attend the League of California Cities training for new Mayors and Council Members. The City reimburses all costs associated with attendance at such trainings. However, additional

training could provide elected officials with further helpful information. City staff is committed to working with the Council to consider options for additional training.

Finding 19-2: The City of Alameda's Charter fails to provide enforcement mechanisms when Councilmembers and staff violate provisions of the Charter, creating uncertainty when such violations occur.

Option 1:

Response: **Agree**

In recent months, Mayor Marilyn Ezzy Ashcraft established a City Charter Subcommittee consisting of Vice Mayor John Knox White and Councilmember Tony Daysog. This taskforce was created to review the City Charter, seeking to provide greater guidance and clarity to City officials, staff, and the public.

On March 16, 2019, the Charter review process was discussed as a priority area for the City Council in its annual Priority Setting Workshop. At the March 19, 2019 City Council meeting, there was a discussion about the Charter review during Councilmember Communications. On April 2, 2019, another update was presented to the City Council from the subcommittee regarding the Charter review process. Vice Mayor Knox White and Councilmember Daysog then collaborated with the League of Women Voters of Alameda to engage the community in a conversation about reviewing the Charter. Two City Council Workshops were scheduled for June 26, 2019 and June 27, 2019 at Mastick Senior Center and the Alameda Main Library. Following these meetings, the City's website will be updated with videos of overview content provided and areas for community members to leave their written feedback. The subcommittee will continue its work, providing regular updates to the City Council.

Option 2:

Response: **Partially Disagree**

The City of Alameda's Charter, when construed in coordination with California state law, does provide enforcement mechanisms when Council Members and staff violate provisions of the Charter. For instance, Charter Section 22-4 provides that "Any person convicted of a felony or misconduct in office shall forfeit his or her office or position of employment. No person who shall have been convicted of a felony or misconduct in office shall ever hold any office or position of employment in the service of the City, consistent with State law." Charter Section 7-3 provides that "An attempt by a Councilmember to influence the City Manager in the making of any appointment or the purchase of any materials or supplies shall subject such Councilmember to removal from office for malfeasance." Additionally, Government Code Section 3060 authorizes a grand jury to

issue an “accusation” against “any officer of a district, county, or city . . . for willful or corrupt misconduct in office” which could lead to such officer’s removal from Office.

Nonetheless, the City of Alameda has initiated efforts to consider strengthening its Charter. In recent months, Mayor Marilyn Ezzy Ashcraft established a City Charter Subcommittee consisting of Vice Mayor Knox White and Councilmember Daysog. This taskforce was created to review the City Charter, seeking to provide greater guidance and clarity to City officials, staff, and the public.

On March 16, 2019, the Charter review process was discussed as a priority area for the City Council in its annual Priority Setting Workshop. At the March 19, 2019 City Council meeting, there was a discussion about the Charter review during Councilmember Communications. On April 2, 2019, another update was presented to the City Council from the subcommittee regarding the Charter review process. Vice Mayor Knox White and Councilmember Daysog then collaborated with the League of Women Voters of Alameda to engage the community in a conversation about reviewing the Charter. Two City Council Workshops were scheduled for June 26, 2019 and June 27, 2019 at Mastick Senior Center and the Alameda Main Library. Following these meetings, the City’s website will be updated with videos of overview content provided and areas for community members to leave their written feedback. The subcommittee will continue its work, providing regular updates to the City Council.

Finding 19-3: Councilmembers who were the obvious subjects of the independent investigation were allowed to participate in the editing of the outside investigator’s report, damaging the “independence” of the analysis.

Option 1:

Response: **Agree**

While the City of Alameda agrees with this finding, ultimately both the edited report and the full report with necessary minimal redactions were released to the public.

Option 2:

Response: **Partially Disagree**

The two Councilmember’s participation did not damage the independence of the analysis. Indeed, both the edited report and the full report with necessary minimal redactions were released to the public. The minimal redactions of the publicly-released full report in no way infringed upon the independence of the investigator’s analysis.

Finding 19-4: In violation of the City's Charter they had sworn to uphold, two Councilmembers did interfere with the City Manager's ability to conduct an open and transparent recruitment for a new Fire Chief.

Option 1:

Response: **Agree**

While the City of Alameda agrees with this finding, it is important to point out that the City's independent investigator concluded that one Council Member, not two, violated the City Charter. Additionally, the City further recognizes the grand jury's conclusion that the conduct at issue, even if violative of the City Charter, does not rise to the level of "willful or corrupt misconduct in office" necessitating removal from Office.

Option 2:

Response: **Partially Disagree**

The City of Alameda engaged the law firm of Jenkins & Hogin, LLP to conduct an independent investigation of the alleged conduct at issue. The independent investigation involved interviews with 22 people along with a review of a substantial volume of relevant documents. This investigation concluded that one Council Member, not two, violated the City Charter.

Responses to Recommendations 19-1 through 19-4

Recommendation 19-1: The Alameda City Council must establish policies for mandating initial training and orientation and ongoing annual training for elected officials and senior staff related to ethics and governance.

Option 1

Response: Recommendation 19-1 requires further analysis. The City of Alameda will conduct additional research on implementation strategies and develop a workplan for implementation. City staff expects to return to Council, at an agendaized public meeting, for update and discussion not more than six months after the issuance of this report.

Option 2

This recommendation has not yet been implemented, but will be implemented in the future. City staff expects to return to Council, at an agendaized public meeting, within the next six months to provide recommendations on implementation of this policy.

Recommendation 19-2: The Alameda City Council must investigate possible Charter or Municipal Code amendments to clarify and strengthen provisions relating to City governance. The Charter should delineate the specific types of conduct that constitute a violation of section 7-3, as well as outline an enforcement process.

Response: Recommendation 19-2 requires further analysis, but implementation has already begun.

In recent months, Mayor Marilyn Ezzy Ashcraft established a City Charter Subcommittee consisting of Vice Mayor Knox White and Councilmember Daysog. This taskforce was created to review the City Charter, seeking to provide greater guidance and clarity to City officials, staff, and the public.

On March 16, 2019, the Charter review process was discussed as a priority area for the City Council in its annual Priority Setting Workshop. At the March 19, 2019 City Council meeting, there was a discussion about the Charter review during Councilmember Communications. On April 2, 2019, another update was presented to the City Council from the subcommittee regarding the Charter review process. Vice Mayor Knox White and Councilmember Daysog then collaborated with the League of Women Voters of Alameda to engage the community in a conversation about reviewing the Charter. Two City Council Workshops were scheduled for June 26, 2019 and June 27, 2019 at Mastick Senior Center and the Alameda Main Library. Following these meetings, the City's website will be updated with videos of overview content provided and areas for community members to leave their written feedback. The subcommittee will continue their work, providing regular updates to the City Council. The next update and discussion by the full Council is expected to occur not more than six months after the issuance of this report.

Recommendation 19-3: The Alameda City Council should adopt a policy stating that Councilmembers who knowingly violate ethical codes of conduct or charter provisions may not seek reimbursement for related legal representation.

Response:

Option 1

Recommendation 19-3 requires further analysis. The City of Alameda will conduct additional research on implementation strategies, and develop a workplan for implementation. City Staff expects to return to Council, at an agendaized public meeting, for update and discussion not more than six months after the issuance of this report.

Option 2

This recommendation has not yet been implemented, but will be implemented in the future. City Staff expects to return to Council, at an agendaized public meeting, within the next six months to provide recommendations on implementation of this policy.

Recommendation 19-4: The Alameda City Council working with the city attorney, city manager, and city clerk must develop and implement a code of conduct and councilmember handbook.

Option 1

Response: Recommendation 19-4 requires further analysis. The City will conduct additional research on implementation strategies, and develop a workplan for implementation. City Staff expects to return to Council, at an agendaized public meeting, for update and discussion not more than six months after the issuance of this report.

Option 2

This recommendation has not yet been implemented, but will be implemented in the future. City Staff expects to return to Council, at an agendaized public meeting, within the next six months to provide recommendations on implementation of this policy.

Once again, thank you for providing the City of Alameda with the opportunity to comment on the Alameda County Grand Jury Report Findings and Recommendations. We appreciate the efforts of the Grand Jury to improve the quality of local government operations in Alameda County and in the City of Alameda and look forward to enhancing trust in government by reviewing and implementing the Grand Jury's recommendations.

Sincerely,

Marilyn Ezzy Ashcraft
Mayor

cc: Alameda City Council
Alameda County Board of Supervisors
Alameda City Manager
Alameda City Attorney