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- Ginale Harris: It's provided a public comment. Is that it? Or Connor, is there some... Or Wyatt?
- Thomas Lloyd Smith: I would be happy to announce the names.
- Ginale Harris: Why can't we read the public comments?
- Thomas Lloyd Smith: You can, but you can also just enter it into the record. So when we turn out the... When it's emailed, you can do a straight entry into the record, or you could read the public comment.
- Ginale Harris: I think that was one of the complaints is that because we're doing virtual, we're eliminating a lot of stuff we would do in a regular meeting. And I think it's only fair that these comments should be read.
- Juanito Rus: That's okay. Briefly, if I may? (silence).
- Regina Jackson: Commissioner Harris?
- Ginale Harris: Present.
- Regina Jackson: Commissioner Smith?
- Thomas Lloyd Smith: Present. Present.
- Regina Jackson: Commissioner Dorado? Okay. Commissioner Prather?
- Edwin Prather: I'm here. Thank you.
- Regina Jackson: Thank you. Commissioner Anderson?
- Tara Anderson: Present. Thank you.
- Regina Jackson: Thank you. So it looks like perhaps Commissioner Dorado is either excused or will be joining us later. And myself, Commissioner Jackson, I will chair this meeting. So, first item is the welcome purpose and open forum for public comment. I will turn over the mic to you, Mr. Lewis.
- Juanito Rus: Thank you. Sure.
- Regina Jackson: Oh, Commissioner Gage, hold on one second. So, I'm not sure who's in the machine room?
- Juanito Rus: That's on Mike Munson's line. I just muted it.



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- Regina Jackson: Oh, okay. Very good. All right, so Commissioner Gage?
- Henry Gage, III: Yes Chair.
- Regina Jackson: Did you have a point to make? I'm sorry.
- Henry Gage, III: No chair, we can keep on speaking.
- Regina Jackson: Oh okay. Very good. Thank you. So back to you Mr. Ruse.
- Juanito Rus: Good evening commissioners. Good evening members of the public. Prior to tonight's meeting we received seven emailed comments from members of the public. We received comments from Elaine Warren, Angie Tam, Antonio Barco of North Bay, Bruce Schmiechen, Catherine Yagle, Rashidah Grinage, and Elise Bernstein. At this time I'd like to invite members of the public who wish to make a comment, to raise their hand in the Zoom screen, and I will call on you in the order that your hands are raised.
- Regina Jackson: Mr. Ruse, just to add to that. We have been advised not to read the public comments, but they will be entered into the record. Go ahead Mr. Ruse.
- Juanito Rus: Thank you. I, at this time, see two members of the public with their hands raised. Three members of the public. First to comment will be Rashidah Grinage. Good evening, Ms. Grenache. Can you hear us?
- Rashidah Grinage: Yes I can. Can you hear me?
- Juanito Rus: Yeah, we can hear you. Your time starts now.
- Rashidah Grinage: Thank you. Commissioners, this is a daunting task you have. I know that you know that we've spent months and months and months, in fact close to a year, working on the changes that we feel are needed in Measure LL. The guiding principle needs to be, how to increase the authority that the commission has and the independence that the commission has. So, our view is that any provision that is a change from Measure LL, needs to enhance the commission's ability to do its work independently and with authority, and not diminish the commission's ability to do that.
- Rashidah Grinage: And we do have some problems with the draft that Mr. Prather and Gage submitted today for that very reason, that some of those changes we feel are actually sending the commission backward instead of forward, and give the commission less authority and less discretion than they currently have. And so, we are not in favor... And I'm speaking specifically of Section G, the Adjudication



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Section. So I'm assuming that when we start to discuss the provisions that the public will be able to weigh in more specifically on each one. At least that's my assumption. And so, we look forward to hearing your own reactions as well. Thank you very much.

Juanito Rus: Thank you Ms Grenache. I will stop your time. The next hand I see is for John Lindsay Poland. Mr. Poland, can you hear us? Hello, Mr. Poland?

John Lindsay-Poland: Can you hear me now?

Juanito Rus: I can hear you now.

John Lindsay-Poland: Sorry. Thank you commissioners. I also wanted to speak to the agenda this evening. I mostly wanted to focus on one thing which is the proposed change that policy changes unless they are part of the explicit mandate of the commission. Which does not include a lot of OPD policies, would require a six out of seven super majority. This is effectively a veto on the commission's ability to set policy on many different relevant issues. Many issues of policy are interlocking, for example, use of force relates to many other different kinds of policies that might not be considered to be a use of force policy, but actually do have an impact on the way the department uses force.

John Lindsay-Poland: So, we are from the American Friends Service Committee, which is a member of the Coalition for Police Accountability. Just very concerned about that particular provision. I understand that it was an attempt to compromise, but I think it is not a provision that should be supported by the commission in order to be able to actually exercise. Because otherwise you will have people who are essentially vetoing, small minorities of two members who are vetoing things that a significant majority of the commission believes is the right policy, and that's not a recipe for good policy. Thanks so much.

Juanito Rus: Thank you Mr. Lindsey Poland. I will lower your hand. The next speaker we have is Michael Tigges. Hello, Mr. Tigges. Can you hear me?

Michael Tigges: I can. I hope you can hear me.

Juanito Rus: I can hear you. Your time starts now.

Michael Tigges: Okay, great. Thank you. I'm also a part of the Coalition for Police Accountability. Many of you know me. Although I haven't been in the chambers that much for various reasons recently. I have reviewed three drafts in the last three days, and I don't know if the one that you put in in your agenda packet is the one that the Public Safety Committee will review tomorrow or if it's yet the fourth draft. I've



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got to say watching the sausage being made makes me become a vegetarian. I've seen poison pills dropped into these drafts throughout the process. I'm going to speak to the last provision in terms of council hiring. That is the biggest poison pill that was dropped in at the last minute, presumably by the city attorney to essentially make you a, "Oh yes, we have a police commission." They're like the San Francisco Police Commission. The mayor can appoint the head of the LP away, and somebody who defends police as their major thing.

Michael Tigges: In other words, you are being set up for failure. And to my mind, if nothing comes out of this in the next few days in terms of improving Measure LL, I just like to see Measure LL stand. You're going to be standing up there on the barricades fighting the city administration until the forces of the status quo have been defeated, which will take a long time. Thank you.

Juanito Rus: Thank you Mr. Tigis. I'll lower your hand. The next speaker I have is Mr. Larry White. Hello Mr. White, can you hear us?

Larry White: Yes I can. Can you hear me?

Juanito Rus: I can hear you. Your time starts now.

Larry White: Okay, great. Thanks. I agree with the previous speakers, and reiterate what Rashidah Grinage: said, which is that this really... The changes have to be an improvement. They have enhance the authority and power and ability of the commission to do effective police oversight. And if they don't do that, if these changes don't do that, then we shouldn't have them. And there are also, as Michael Tigis said before, there are poison pills in here. And one of them, it has to do with the requirement that the police commission defend itself in Ritz of Mandate, injunctions, and a few other matters.

Larry White: So you would be required to essentially fund litigators, and there's no guaranteed budget for that. This would give the police officer's union, the OPOA, a wonderful cudgel over you, because you would end up being afraid to take actions because they would be threatening to sue you, and you may not have the money in the budget to get it. Yes, you could go to the city council, but who knows what that would involve. So, that change is not... That's a poison pill. It's better not to have any changes than to have that.

Larry White: Also, again, the devil's in the details, and the issue about changing policy. You have to look at what the city attorney wrote. Basically it isn't only that six votes are required, it's also that the commission is required to suggest to the council a change. The council then has to pass an ordinance, and then allowing the commission to then make a proposal. In which the [crosstalk 00:16:44]-



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Juanito Rus: Thank you Mr. White, your two minutes have elapsed.

Larry White: Okay. Thank you.

Juanito Rus: I'm going to lower your hand. Thank you. The next speaker I have is Catherine Yagle. Hello, Mrs. Yagle.

Catherine Yagle: Hi there. Can you hear me?

Juanito Rus: I can hear you. Your time starts now.

Catherine Yagle: Can you hear me?

Juanito Rus: I can hear you.

Catherine Yagle: Okay, great.

Juanito Rus: Sorry, I'll reset your time mam. Whenever you start talking your time will start.

Catherine Yagle: Okay, great. Thanks. I just want to know what if any disciplinary action is being taken towards the officers who racially profiled and incorrectly identified a person for whom they had a warrant the other day? There's a video that went viral on the internet recently. East Oakland Collective posted it if you want to see it, where they have several police officers violently smashed someone's face into the ground, and then it turned out they had the wrong person all along. And I just want to know if there's any disciplinary action being taken around that. And if not, how that can be pursued by the public? That's all.

Juanito Rus: Thank you Mrs. Yagle. I will mute you and lower your hand. Oh. I'm sorry commissioner's. I believe Paula Hawthorne also had her hand up. Ms. Hawthorne, if you had your hand up, if you could please raise it again. I lost you. Yes. Okay. Next speaker will be Paula Hawthorne. Hello, Ms. Hawthorne, can you hear us?

Paula Hawthorne: Hello, yes, I can. Can you hear me?

Juanito Rus: I can hear you. You're a time will start when you start talking.

Paula Hawthorne: Very good. Thank you. So, the version of the Measure LL or revision, that you guys have on your agenda is not the version that is on the public safety agenda for tomorrow. This is very confusing, very confusing for the voters. I imagine it would be very confusing for anyone. And I would really like to know your strategy going forward. Public Safety can't be voting on your version because



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that's not according to the Brown Act. They have to be voting on the version that's in their agenda, which is not this one. And there are substantive changes. At first I thought there were only minor word changes, but no, there are substitute changes. Some of which I'm sure we'll be talking about later as we're talking about specific issues. But my overall question is, what is your strategy here? Is this version somehow going to get substituted? I kind of wonder about that. And so, if you would please explain that, that would be wonderful. Thank you. I'm done.

Juanito Rus: Thank you Ms. Hawthorne. At this time I see no other hands raised among the attendees. Madam chair, I'll pass the meeting back to you.

Regina Jackson: Thank you very much. I just wanted to say that between the time that we began taking public comment, we were joined by Commissioner Dorado. We had a quorum before he joined, but also we continue to have a quorum. This item that we are discussing today is specifically suggested draft language to be included in the Measure LL ordinance. I was going to have Commissioners Prather and Gage take us through each segment of their drafts. But I do have a hand raise from Commissioner Harris, so I will hear the question or the comment.

Ginale Harris: Thank you Chair. So I am in agreeance with Ms. Hawthorne. We have two separate measures here. So, my question is why are we looking at this one, if this is not the one that is going to be on the public safety. They're different.

Regina Jackson: Commissioner Gage, I've just sent a communication which I won't have a response to immediately, but I'm not sure if Commissioner Gage or Prather can weigh in on the question.

Juanito Rus: I'm going to unmute Mr. Prather so he can jump in as necessary.

Regina Jackson: I'm sorry, who's going to talk first?

Henry Gage, III: I'll say it quite briefly. The draft we were working off of was the most recent draft we received from the city attorney's office. And as far as we are aware that is the only draft that is approved as to form of legality. Presently it's unclear as to whether Public Safety will be able to move forward with the draft that the city attorney has not approved as the form of legality. And in terms of the actual operation, I don't imagine that it's going to be as simple as a substitution. In terms of a work product, we are working on a... Instead of sending a letter... It says, pardon me. Instead of sending a red line to council, which we can certainly do, it's likely a better tactical strategy to send a letter to counsel outlining our proposed changes.



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- Henry Gage, III: So, as we go through, we should put together a red line of what we would like the document to look like, but we should also keep an eye as to putting out a letter of what our proposed changes are. There are so many versions floating around, and it's very difficult to keep track of all of them. And because of that, a letter outlining our proposed changes is likely to be more effective than requiring someone to read through our red line, or frankly any [inaudible 00:23:14].
- Regina Jackson: Okay. And that sounds good. Commissioner Prather?
- Ginale Harris: [crosstalk 00:23:22].
- Edwin Prather: Not here. Thank you Madam Chair. Yeah, I'll agree with Vice Chair Gage on this. Our thought was that we had received on Saturday the most recent version coming out of the city attorney's office. The draft that went to the city council on Tuesday included a couple of provisions that had language that the city attorney had submitted, but it not yet cleared. So it appeared that that document itself was not a final version to be considered by Public Safety. So, the document we considered the most latest and greatest version, and that we could look at was Saturday. So frankly, after spending hours editing and analyzing the version that went to city council on Tuesday, we scrapped that and started all over again on Saturday, using the latest version out of the city attorney's office. And that's the document you have commissioners before you.
- Edwin Prather: It has been red lined by our ad hoc Vice Chair Gage and myself to make initial edits. Our intention tonight is to go through that document section by section with you, to perhaps answer questions, to discuss certain provisions. This is going to be unlike any meeting we've had, because we do want to understand edits and concerns in the document. But I do want to say this, and I don't want this to get lost, this is not a hearing on the issue. This is a public meeting to determine what the commission's position on this city council resolution is. But I do not feel, and I believe Vice Chair Gage agrees with me, that this is meant to embody and to be the final final of what the public wants or what the public views is a final resolution to go on the ballot.
- Edwin Prather: This document, which will be as Vice Chair Gage has mentioned, embodied in a letter outlining edits, and we may or may not attach a red line to that document. But we would like at the end of this meeting to be able to draft a letter from the commission, that gives our opinion on the resolution proposed by a Council President Kaplan and President Pro Tem McCall, regarding what, based on our experience as a commission, what we feel may be appropriate edits to the document. And so, that's the view in which we come to this meeting



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tonight to go over edits with you. Chair, I see commissioner Harris has her hand up.

Regina Jackson: Okay. Hold on just one moment. Okay.

Juanito Rus: Commissioner Chair?

Regina Jackson: Commissioner Harris?

Juanito Rus: Excuse me. To the Chair.

Regina Jackson: Hold on one second Mr. Ruse. Go ahead Commissioner Harris.

Ginale Harris: Thank you. So I've heard both comments, and I appreciate your time that you took to do that. However, it still did not answer my question. There's a completely different draft on the agenda that is not similar to the one we will be discussing tonight. And based on previous interactions with the city attorney's office, I am skeptical that we are looking at the correct version. And so, how do we address that tonight? Because if its agenda is already on Public Safety, then that is the version they'll be looking at. And I read both versions, and they're completely different.

Regina Jackson: Right. I believe if I can answer, that the letter that we hope will be a reflection of the commission's position, will be sent to all of the council members, whether or not they look at it in the midst of their Public Safety meeting, they will all have a time to consider it as a full council body. So, I'm not exactly certain, but that is my assertion. It sounds like it's Commissioner Prather and Gage's assessment. I've already connected with Council President Kaplan, and she's looking forward to receiving it along, and I've suggested that we'll send it to all of the council members so that they may discuss it whether or not they are able to address it in tomorrow's meeting or not. Does that answer your question Commissioner Harris?

Ginale Harris: A little. A little. I have the perspective that you're coming from. I would just ask that at the end when we are writing a letter, or whatever it is we're doing, that we include the concern that this draft is not the same draft that is on the agenda for the Public Safety meeting.

Regina Jackson: Yes.

Ginale Harris: Just let them know that we know.



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- Regina Jackson: I think that's very important, and we will make sure that that happens as well. And I think to Commissioner Prather's point, these drafts have been left him, and we went to the city council office to get Council President Kaplan's version, presuming that it was the latest and greatest.
- Ginale Harris: Yeah.
- Regina Jackson: Okay. Thank you. So what I think would be best at this point, is to have Commissioners Prather and Gage lead us through each segment of the proposed resolution. And commissioners, we want to give time to ask questions or clarification, but I think it would probably be best to have public comment again at the end.
- Juanito Rus: Should I retract it?
- Regina Jackson: Mr. Ruse?
- Juanito Rus: I'm sorry to interrupt. I've gotten a message from K-Top that they're having a problem with their video feed, and are requesting if we can take a brief pause while they log out of the meeting and log back in, to see if that corrects it?
- Regina Jackson: Okay. So are we basically saying a five minute pause, bathroom break kind of thing?
- Juanito Rus: Just until they can log out as a panelist and log back in. I believe that should fix it.
- Paula Hawthorne: Okay. All right. Very good. We'll just do that.
- Juanito Rus: Thank you.
- Paula Hawthorne: But we might consider we won't have any more conversation while we take this brief pause.
- Juanito Rus: I will let you know when they are back in.
- Regina Jackson: Okay, thank you. (silence).
- Juanito Rus: Good evening Chair. I understand from K-Top that they now have a good feed.
- Regina Jackson: Okay, excellent. Thank you. So I'm going to return back to Commissioners Prather and Gage to have them walk us through section by section. And I'll turn



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it over. I've unmuted Commissioner Prather, and I believe Commissioner Gage is already unmuted.

Henry Gage, III: Thank you Chair. I'd like to move as deliberately as possible through this document, and keep an eye on the panelist section so we can ensure the questions raised by commissioners are answered. As has been previously mentioned by Commissioner Prather, I kindly request that commissioners, as you are reading this document, please keep an eye on the edits that are substantive rather than merely grammatical, except of course for grammatical edits of [inaudible 00:33:53] substantives. We also ask you to be mindful that our proposed work product from this meeting is a letter outlining our intended changes.

Henry Gage, III: Meeting is a letter outlining our intended changes as well as the rationale. The degree to which we can receive that feedback specifically as opposed to this document itself is much appreciated. With that, I'm now looking at the first page of the proposed draft the whereas sections, and I could take all of these together because you will note after review, that` the edits to this section are largely grammatical and do not appear to implicate any substantive concern. I'll pause for a moment if the commissioners have questions or comments. I'm seeing one hand from Commissioner Harris.

Ginale Harris: Thank you, Vice Chair Gage. Is it possible that Mr Rouse can put the document where he has this PowerPoint, so we can view it from the screen? Because we have to split screen this thing and it's very difficult to look at documents while we're split screening.

Regina Jackson: That's a good point, Commissioner Harris. I sent him a text requesting that does happen. I'm not sure.

Ginale Harris: I think I asked the last meeting if we can have these documents posted so we can say-

Regina Jackson: Very good. Mr. Rouse, are you able to handle that?

Juanito Rus: I am here. Generally speaking, that's not as easy as it sounds, but I will try to put the document and follow along with commissioner Gage. Let me just find it.

Regina Jackson: Okay. Very good. Thank you. Thank you, Commissioner Harris.

Ginale Harris: Yes ma'am.



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- Henry Gage, III: Thank you. I will try to provide as much direction as possible while are moving through and move slowly so you can follow Mr. Rouse. We'll pause for a moment while you bring up the document.
- Juanito Rus: Do you see it now?
- Regina Jackson: Yes. Thank you.
- Henry Gage, III: Okay. Given the file on Mr. Rouse's screen, it appears you can view approximately see one half of one page at a given time. So, looking at the top half of page one, the Whereas Clauses, you may note that the edits pose to these Whereas Clauses are largely grammatical in nature and don't appear to implicate any substantive concern. I'll pause again and if any commissioners have questions or comments about these clauses. Mr. Rouse, would you move to page two please? Similar to page one, The Whereas Clauses continue. I do not believe we've made substantive edits on page two on pause for a moment if commissioners have questions or comments. Seeing none, moving to page three of the draft. Page three at the beginning of subsection A Creation and Role, and in the first section where we began to make substantive edit to this document. Looking at section 604, subsection A, Creation and Role number four. We see that the addition of police commissioners and alternate police commissioners is that it is made for clarity of terms of art. I'll pause for a moment if commissioners have any questions? Mr. Prather, please.
- Edwin Prather: Oh, I'm sorry, my hand was a little bit quick to the draw there. I'd like to discuss item five.
- Henry Gage, III: Turning to subsection A item five. Mr. Prather.
- Edwin Prather: Thank you. So, I've had a change of heart as sometimes do on subjects and topics and I would now propose that we eliminate this section completely for a couple of reasons. I believe that in section C10, it would be more appropriate to have reference to the fact that city administration should not initiate, and I'd like to change this slightly, and I'll credit Larry White for making a suggestion to me offline, that the language from this section that should be adopted into subsection C10 of this document should be "the city administration shall not initiate an investigation of a commissioner unless required by law or collective bargaining agreement." That seems to me to be less vague and not allow city administration wiggle room, should they like to do anything else in that bang.
- Edwin Prather: The first part of this phrase, "the city administration shall not exercise any managerial authority" is also something that I think we need to address because while in and of itself, and I've heard other people mentioned poison pills or



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potential pitfalls in this document. You need only look at the first item on the next page which is a Section B-1 and it's up on your screen now. Section B one is really the statement that we want to emphasize that the commission has the power to organize, reorganize and oversee the agency and the OIG. What we don't want is we don't want anything in section five to say the administration shall not exercise any managerial authority over commissioners or their staff, to say, "well because we left out references to the agency or OIG, therefore we left this loophole in the clause that then let city administration somehow exercise managerial authority over the agency in OIG. And so therefore, I would propose that we eliminate item five altogether from this draft with the caveat that we put in the language about the investigation into subsection C10. Thank you Commissioner Gage.

Henry Gage, III: Thank you, Commissioner. Before I get to your hand, Commissioner Harris, subsection C10 is much later in the document. For reference, section C10 discusses removal of commissioners for code misconduct or a variety of other reasons. That is why I Commissioner Prather and I were suggesting that, that section be the appropriate place to discuss investigations or removal and I'm also in agreement with Commissioner Prather's recommendation perspective to the first part of number five. Commissioner Harris, please your comment?

Ginale Harris: Thank you. So I have one question, one request. The request is Mr. Rouse, as the commissioners are speaking, if possible, can you please scroll to the section they are referring to, because I'm a visual learner and this is not working for me and I cannot see what they're talking about. There's so much information that unless you go to it I'm not going to know what they're talking about. So, that's my comment. My question is in section five where it says the city administration shall not exercise any managerial authority. What does that have to do with investigation? I think there are two separate issues and I think, learning from the past, that if we are not specific in regards to who the staff report to, then they are going to assume that they report to them. That's one and I don't think that has anything to do with the city administrator investigating the commissioner. I think there are two separate items and I think they need to be both outlined so that we are very clear. That's comment my comment. Thank you.

Regina Jackson: Thank you.

Henry Gage, III: Thank you. Commissioner. Commissioner Prather, I believe you were addressing that issue of removing Item Five, and Commissioner Smith, I see your hand up. [crosstalk 00:43:10]



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Thomas Lloyd Smith: Okay. I do, and Commissioner Harris, it's a good point. So, what we're doing is we're taking the second half of the sentence in regards to initiating an investigation and we're combining it with C10, which is later, and what C10 references is that the city itself is not the body that can investigate, but actually the public ethics commission. And so it couches investigation in that section, which makes it way more relevant and topical. And so, I think that, that's what we're suggesting is this be split. The first half of the sentence, "the city administration shall not exercise managerial authority of commissioners." What we're saying is that because we're only saying commissioners or designated staff, does that potentially leave the city administrator to say, "Well ha-ha, it only says commissioners are staff. So I can tell the OIG what to do or I can tell sipper what to do."

Thomas Lloyd Smith: That's why we feel like we should eliminate this completely because we don't need it. It's vague and it actually hurts what it says in section B1 which is that very next section and it says organize, reorganize, and oversee the agency. Now I think if we wanted to put, for clarity sake, if we wanted to put also in that B1, oversee commission staff, the agency and the OIG, I think that could make it more clear, but to leave it like this here, I think invites of potential vagueness that I don't think is appropriate in this document. I think it makes us weaker.

Henry Gage, III: Mr. Rousse, for clarity sake, would you please scroll the document on the screen to section C10 please?

Juanito Rus: Do you have a page number for that? It will be easier.

Henry Gage, III: Yes. C10 page number nine, bottom of page. Now I believe commissioners mint was in the queue. Commissioner Smith, do you still have question?

Thomas Lloyd Smith: Oh, can you guys hear me?

Henry Gage, III: Yes, we can hear you.

Thomas Lloyd Smith: So, yeah, so I'm back. Apparently I got disconnected briefly. But anyway, no, my point was just following on that point five. I was just going to say I'm not certain that we need to remove that or even move it. I'd really like to limit our edits to this document too, as we were talking about before when they have substantive effect, and point number five, setting it at the top, sets out and making it so short, it makes a pretty powerful point. And it says, "the city administration shall not exercise any managerial authority over commissioners or their designated staff." I mean, that's an incredibly important point, and it's one that they've set out pretty early there, "and shall not initiate an investigation." I mean, it's short, it's simple and it's clear. And so I don't know why we would move that. I mean,



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if we want to augment or add two other points later on in the process, I don't see anything wrong with doing it. It's just this one's so direct and so important that the city administration shouldn't try to exercise managerial authority over commissioners.

Thomas Lloyd Smith: So, anyway, my bias is just to leave it where it is and leave it alone and if there's changes that you want to make later on down in the text, you can sort of add language to that, but I wouldn't move something that we don't want to change.

Henry Gage, III: Thank you commissioner Smith.

Thomas Lloyd Smith: Sure.

Henry Gage, III: Are there any further questions or comments from commissioners on this section? Seeing no hands in the queue. It appears that before we move on, Commissioner Harris, you're in the queue.

Ginale Harris: Thank you. Vice chair. So, just so I'm understanding, are we coming to conclusions before we move on to the next section so we know what we are going to put in our final draft because I didn't see that we came to a consensus there?

Henry Gage, III: Thank you, Commissioner Harris. I agree that we have not reached consensus on number five and before moving on, I'd like to ask the commissioners whether they are ready for a motion, whether they feel further debate is necessary. It appears that there are two positions outlined with respect to number five under Subsection A. One is to leave the position as is, as outlined by Commissioner Smith. The second is to split as outlined by Commissioner Prather and myself. I see Commissioner Anderson in the queue. Commissioner Anderson.

Tara Anderson: Thank you, Vice Chair Gage. I'm inclined especially because I feel as though this action is so closely tied to the recommendations around C10. I'm in a meeting, honey.

Edwin Prather: [inaudible 00:49:00] to send them.

Tara Anderson: Sorry about that. That I'm inclined to to not take a motion-by-motion or edit-by-edit motion process but because so much of this is interlinked, I think it'll prove exceptionally challenging to do so. I would prefer a summary on the agreement changes and then going over those in the end.

Henry Gage, III: Thank you. That's well received. While we're going through it, I will do my best to keep track of items where we have not reached consensus or where there's



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been significant debate so we can return to those items before we conclude tonight's meeting. I will then note that this item, A5, is the subject of such a debate. One minute please. Thank you. Before you begin to move through the remainder of the document, do any commissioners wish to lobby comments, questions, or criticism as proposal to simply note items where we do not have consensus? I am seeing no hands in the queue at this time. Moving then to page number four, Subsection B, Powers and Duties

Henry Gage, III: The substantive changes in Subsection B began on number four with proposing changes. I'll pause for a moment. Any commissioners have comments or questions that wish to make? Commissioner Smith? You're on the queue.

Thomas Lloyd Smith: Yeah. Can you hear me?

Regina Jackson: Yes.

Thomas Lloyd Smith: Great. I was just looking down at part B4, enumerated number four, and I see that we've made a change, or you've made a change there where it says "upon the commission's recommendation made by no fewer than four affirmative votes" but then later on, if you keep reading, you slashed out six affirmative votes there, but then if you keep reading, it says "the city council may authorize the commission by ordinance passed by no fewer than six votes." And so you haven't changed that six votes there to reflect the four votes that you changed above. It still says in the sentence directly below it "by ordinance passed by no fewer than six votes."

Edwin Prather: Yeah, Commissioner Smith. That's a reference to the city council six votes, not our six votes. That's our four votes to get to city council. Six votes at city council for city council members.

Thomas Lloyd Smith: Oh, I see. Okay. Okay. On this commissions recommendation... Okay.

Henry Gage, III: Mr. Smith, do you have further question? Okay, no further from Commissioner Smith. Commissioner Harris is in the queue. Commissioner Harris?

Ginale Harris: Thank you, Vice chair. Mr Rouse, if you can just make that this document a little bit bigger, if you could. The blue is very hard to read. The light blue. Are those the proposed changes? The light blue is what you and Commissioner Prather worked on? Thank you. Is that when I'm looking at,

Henry Gage, III: Thank you. Commissioner Harris. Yes. The light blue text, and pardon me for a moment , that text is a different color in my local copy, the light blue text on the



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copy on the screen represents edits to the text that were typed in by Commissioner Prather after our discussion.

- Ginale Harris: Okay. Okay. Thank you. I am an [agreeance 00:53:33] with the changes. Thank you.
- Henry Gage, III: Thank you. Commissioner Harris. Commissioner Anderson, you're in the queue.
- Tara Anderson: Thank you, Vice chair gauge. I just wanted to, I guess call out what I do believe is absent, any other rulemaking because we are a body of seven, four is a majority, so it's like a common sense provision that would exist absent. This more potentially prohibitive requirement of a larger majority of six. Is my assumption correct about a body that consists of seven, a simple majority is four? So, I'm just, I guess, articulating that what we're really asking for is a simple majority being sufficient and don't see a reason for something larger than a simple majority to pass an affirmative vote.
- Henry Gage, III: I can see your concern, Commissioner Anderson-
- Edwin Prather: So, I'll take that by Vice Chair Gage, if you don't mind. So, Commissioner Anderson, the way we viewed this as and the way I would like to couch it in a letter to city council, is that we have no super majority requirement except for actions that implicate the chief's job. That's a five affirmative vote, vote. To make this a policy vote. A super majority of six of seven just seems nonsensical. It has no basis in reason and I've asked for one and tried to hypothetically come up with one and I cannot. And so, there are special circumstances, mainly and you'll see it later in the document when we talk about the termination of someone, or someone's job, that it is five votes, but appears that otherwise we are requiring four votes, four of seven. And so that would fall in line with what our regular vote processes. And so, that's what we would take to city council.
- Henry Gage, III: Thank you, Commissioner Prather. Mr. Alden, I see you're in the queue.
- John Alden: Thank you, Vice chair Gage. The question I had is, again, about section four and the particular part that caught my eye looks to me to be the second sentence, which starts with "upon the commission's recommendation made by no fewer than four affirmative votes. The city council may authorize the commission, et cetera, to propose changes to the department's proposed changes, to all of their policies." Maybe I'm misreading, but to me that sentence look to me like it authorized the commission to make changes to proposals the police department might bring about changes to their policies, which to my eye, is different than the first sentence which appears to allow the commission to propose changes of its own regardless of whether the police department has initiated a change.



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- John Alden: Maybe I'm missing something there, but in this draft that looked to me inconsistent, like there were some sentences that called for the commission to be able to have its own power to start the process of changing an order. And then another that seemed to be relying on the department to create the change and only giving the commission the power to create the change if the department went first. Maybe I'm missing something there, but if I saw that inconsistency there, I thought I had to bring it up and see what others thought about whether they read the same problem there or if there's some [inaudible 00:57:29]
- Edwin Prather: Vice Chair Gage, if I might. I think Mr Alden is correct and we made a modification to the first line Section four, and then did not later alter the language coming after. I think we were excited to change the six votes to four votes that we didn't get to the next sentence, I think is what happened. So, I will make an edit and while I think, while Commissioner Anderson has her hand up, while Commissioner Anderson makes a comment, I think I can suggest an edit to correct this.
- Henry Gage, III: Thank you, Commissioner Prather. I also flag the sentence following the former affirmative vote section as the procedure seems a bit strange after we were doing a section. Commissioner Anderson you in the queue.
- Tara Anderson: Thank you, Vice Chair Gage. I'm just really appreciating Commissioner Prather for the clarification and better words than I was able to find around what I think is totally unnecessary to have six affirmative votes to make a policy action. And then to the points that were made just now, and actually earlier, it's quite challenging to follow the authority that is being spoken to for the commission and that being spoken to, to the city council, and because these are included in the same sentence that is five lines long, it makes it very, very challenging to follow what is being inferred as the authority of the city council versus the commission relative to policy change making within the police department. And I am reading that the subsequent narrative would be changed to reflect the first portion but it's still not clear to me, because ultimately city council is our ultimate arbiter when we and the police department do not agree and it's still really, really challenging, even with the recommended change to follow that at all.
- Henry Gage, III: Thank you, Commissioner Anderson. I also agree with the statements you've made with respect to the difficulty following the line of authority here. I see Commissioner Prather in the queue. Commissioner Prather?
- Edwin Prather: I don't really like to say from that, I take commissioner Anderson, because I mean I take her comments to heart but especially because this is her specialty,



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and I mean policy mock in the best possible way, this is very difficult to read and follow. I do have the position that we should try to make the best of it because in taking to Commissioner Smith's comment that where we can, we'd really like to try to leave the document alone and that I don't think if, Commissioner Anderson, if you or I or Commissioner Gage wrote this section, it would look anything like this, but this is what President Kaplan has forwarded. This is what the city attorney has worked on and approved, and I think it's probably in our best interest to tweak rather than to try to rewrite. And so, I will propose if folks can look at, let's start because it's an easy thing to catch, there's a line in the middle of the paragraph that it says "by no fewer than six votes."

Edwin Prather:

So, my proposal would be to have that say "by no fewer than six votes to propose its own changes or to propose modifications to the department's proposed changes to all other policies." Dot, dot, dot. I believe that would then make that consistent with the beginning of the sentence. I believe that this addresses Mr Alden's concern. I do apologize. I would love nothing more to make changes in the document on the screen so that you all could see that, I'm happy to reread it if anybody wants me to, there's a little bit of just kind of trust us in a language kind of thing. I get that, but I think that that change properly reconciles the issues between the first half of this section four and the second half of section four.

Henry Gage, III:

Seems that it's going to be important for us to all be on the same page with respect to the intent and the goal of subsection four in section five given how closely related these two subsections are. My understanding of these subsections is that when the commission is proposing policy changes, it has to fall into one of two buckets. If the change proposed falls within the commission's core jurisdiction. As you'll see under subsection four talks about policy, procedures, customs of general orders that govern use of force, use of force review board, profiling, first amendments for items expressly listed in the ISA. When items fall within that core jurisdiction, this section would require that the commissioner recommend to council by four votes that policy change be made, but then it also seems to require that council then authorize the commission to make the recommendation. It is somewhat confusing. I must admit I am struggling to find a good way to reorganize this.

Edwin Prather:

Yeah, vice chair gage. I think your comment is a good one. I think I would like to ask, through the chair, ask Mr. Kennedy, our council on this topic. When I read it, I had assumed it was a poorly worded way of having the council authorize what we were doing, but one could take, as you've pointed out, one could take that sort of the next step to say that there is yet another built in step that we'd have to, basically slowing us down, by requiring six votes. So, while my druthers



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is not to change this language, perhaps cutting it out and makes sense, but I really like to hear from council about it.

Regina Jackson: Mr. Kennedy? Connor, are you there?

Conor Kennedy: Hi, can you hear me? I'm sorry.

Regina Jackson: Yep.

Conor Kennedy: Oh, you can?

Regina Jackson: Yes we can. Thank you.

Conor Kennedy: Great. So, with respect to section four, you're right that it's possible that this can be read to introduce ambiguity into a situation that was not ambiguous. I think the way that the city attorney tends to interpret all of these rules is that they need to work together. So, I would sort of want to, at the very least, consult the city attorney before rendering any opinion about what the potentially ambiguous languages in terms of what it would ultimately mean because they would be the ones who are probably, ultimately, opining on it.

Regina Jackson: Okay. It is not likely that we're going to get an answer back from them before we have to get this document to city council tomorrow. So, what is your signage?

Henry Gage, III: I think I'll have something for you guys.

Regina Jackson: Okay, very good. Thank you Thomas.

Thomas Lloyd Smith: So, I also printed out, for myself, just for my own education, the public safety committee meeting and I'm looking here at the version that they have and it looks like they struck that out because on page four of it, the sentence beginning with "upon the commission's recommendation made by no fewer than six affirmative votes" that whole sentence is struck out, and then it's also struck out where it says "the city council may authorize the commission by ordinance passed by no fewer than six votes to propose changes, including modifications to the department's proposed changes to all other policies, procedures, customs or general orders of the department, which governed the subject matter recommended by the commission." Ending right there, that whole entire long sentence was struck out and maybe they struck it out, although, yeah, I agree with what commissioner Anderson said. I read it quickly and obviously missed what was going on, and it was written poorly and I don't know the reason why, but it could be because it was written so poorly.



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Thomas Lloyd Smith: So, all I know is that the version I'm looking at completely strikes that sentence out.

Henry Gage, III: Commissioner Prather, you're in the queue.

Edwin Prather: Yeah, thank you. So I just received a word that the city administrator has put out, contemporaneously with our call yet another draft of this document. So, it appears we may not be working off of even the latest, latest, latest draft.

Thomas Lloyd Smith: The one I'm looking at says 4, 27, 2020 and the date for it.

Edwin Prather: So, let me suggest this. I don't think, to the public's point, to commissioner Harris point, to everyone's fear that going line-by-line edit would make sense for some things and not sense for others. What I would recommend here is that our letter reflect that we do not feel that subsections four and five in this part of the document should write in any additional requirement to the city council that it already doesn't have. I think that, that's all what we're all trying to say that, and we don't know what the language is going to end up being, but we should communicate that the city council should have no additional burden. That we should-

Edwin Prather: No additional burden that we should not have a super majority, that we should have a full four affirmative vote and that we should be able to propose changes, and or modify changes proposed by the department. Those are three things in these two sections, four and five, that I think we're all just trying to find a way to wordsmith and we don't need to. We can just say "Yes, these are the three points we'd like to make in these two sections and we can move on."

Regina Jackson: That's excellent Commissioner Prather, and I did just resend that version to both you and Vice Chair Gauge just in case you wanted to pull it up.

Edwin Prather: I'm a little busy right now.

Regina Jackson: I'm clear.

Henry Gage, III: Thank you Chair. After very quickly reviewing the message from the assistant city administrator, it does indeed appear that we are all thinking along the same lines. To that end. I would propose that pursuant to Commissioner Prather recommendation, instead of going line by line and trying to amend this, we instead come up with a statement that encompasses our intention for these sections, which as I understand it appears to be that we want the police commission to have the authority to propose changes, to modify changes proposed by the department. I think we are all in agreement that the



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commission needs to retain that power. Commissioner Prather, I think you had an excellent summation of what a statement should look like. Would you please restate that for our notes?

Edwin Prather: Sure, so there are three points which come out of sections four and five here, subsection B, and those are this. That the commission has the ability to propose changes and or modify changes proposed by the department. We want to make sure that that is clear. We want to make sure that a super majority of six votes isn't required, that a normal majority of four affirmative votes is, and the basis for that being that we only have a special majority vote for the termination of the chief right now, at five votes and it makes no sense to go to six. And then the third point being that the section, should writing or create no additional encumbrance or obstacle or other hoop that the city attorney need to meet, or sorry, I keep doing that. The city council needs to jump through in order to interact with the police commission. So those will be the three points that we would put into our letter, as far as subsections B4 and B5.

Regina Jackson: Thank you.

Edwin Prather: Welcome.

Henry Gage, III: As stated, do any commissioners wish to make further comments or have arguments they wish to make with respect to that proposed statement of intent, regarding section three, four and five? I'm seeing no hands in the queue. Are any commissioners in opposition to the proposed statement of intent being included in a letter to council?

Regina Jackson: I have no problem with that, but I do want Mr. Ruse to largen the font again, he went back to the basic. Thank you very much.

Henry Gage, III: Thank you Chair and thank you Mr. Ruse. Seeing no commissioner hands in the queue and seeing no requests for further comment. It appears that the statement outlined by Commissioner Prather, with respect to sections four and five and subsection B can be included without objection in our letter of intent. Moving on to the rest of subsection B. Mr. Ruse if can you place the screen on the bottom half of page five. Thank you. As you will note, there's minor edits made to number eight, and further [substantive 01:12:27] edits made on the section. Pardon me page. We'll pause. Do any commissioners wish to make any comments?

Edwin Prather: Vice Chair Gauge. I'll only make- this is Edwin, just in regards to this edit. This is the kind of thing that while it may, make sense to somebody outside the commission, the way the commission operates is that our chairperson or vice



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chair, communicates with the chief of police or her liaison, to have presentations made, to have information passed and it is never that it comes to us and we vote on it first to see it. So this is an example of... This just doesn't fit the way we conduct our business and so that's why the edit is the way it is, that requests made by the commission through the chair, go to the chief of police, absent, even without a vote.

Henry Gage, III: Thank you Commissioner Prather. Commissioner Harris you are in the queue.

Ginale Harris: Thank you Vice Chair. As I'm reading this, I know over the time that I have been a commissioner, the public has been voicing concern in regards to the chief of police being required to come to our meetings and we have an opportunity to write that in here. I don't think that they were impressed with the designees that she sent, although they were informative and helpful. However, they want to see the chief of police. And so I feel that it's only fair that she be required to come to our... he or she, I don't know who, but she now, because we have an interim, that she be required to attend our meetings that way the left hand knows what the right hand is doing.

Ginale Harris: And in my mind, I feel like the commission, the public safety and the chief of police all need to be on the same page and this would be a step foot forward in making that happen. So that, we all know what's happening. We all hear the same concerns. So there's not a, "I didn't know" or "I wasn't here." If she's not here or he's not here, then it's understandable. But I think the leader of our police department should be attending the police commission meetings. This is like one of the most important things the chief can do.

Henry Gage, III: Thank you. Commissioner Harris. Do any commissioners have further comment? For continuing I'll take a brief moment of personal privilege. Commissioner Harris, in general respects, I agree with the point that the chief of police should be required to attend a commission meeting. I've also been made aware that the chief of police has many items that require their time and attention, and it may be prudent to provide them with some wiggle room to allow them to not attend every meeting if their duties require them to be available, some other location. Commissioner Smith you in the queue.

Thomas Lloyd Smith: No, you actually said what I was thinking, so I agree with what you've said. I mean, I think it says here... It does say chief of police, and I agree with the idea of what Jenelle is saying, what commissioner Harris is saying.

Thomas Lloyd Smith: Because I think to the extent that the chief of police can be there, they should absolutely be there. But I do think that we have to recognize that it's possible that it designee may need to attend, and when that designee attends, we tend



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to get someone who is very... We either get an assistant chief or deputy chief. So I agree in theory with what commissioner Harris is saying, it's just I recognize that, there may need to be at certain times a designee and we've gotten somebody very senior historically. So, I'm okay with how it's worded.

- Henry Gage, III: Thank you. Commissioner Smith. Commissioner Harris you the queue.
- Ginale Harris: Thank you Commissioner Smith. I'm in agreeance with that. I do believe that, we do get quality people when they come to our meetings. However, I think we all should learn from our past, in regards to having a chief there. I have found that having the chief of police there, was very helpful and informative because that showed me what she knew and what she did not know. But when we got a designee or a deputy chief, it was very apparent on how much knowledge they had and how much groundwork that was done. And it also showed me that the left hand wasn't telling the right hand what was going on. So our next chief of police, I would keep that in mind, because I think it is very, very important that our next chief of police understand the responsibility that they have to this whole city. So I understand they can't be there all the time, but you know, if you can be like Commissioner Smith stated, I really think that it's appropriate for them to be at these meetings.
- Regina Jackson: So to your point, Commissioner Harris, I think what I hear you saying is, require the chief of police and his or her designee rather than, or, is that what I'm hearing?
- Ginale Harris: Yes ma'am.
- Regina Jackson: Okay. I don't see a problem with us changing that one word. Obviously people get sick, people travel, what have you, but I think that it's reasonable.
- Ginale Harris: Thank you.
- Henry Gage, III: Commissioner Prather, you have the queue.
- Edwin Prather: Yeah. Thanks. Look, I think everybody's on the same page and talking about this the right way. Obviously the chief of police has many duties and there are many things that could keep her from attending meetings, whether it be other meetings or emergencies in the city. And so we need to build this appropriately, so if it makes sense, what I would suggest is that we turn this into... It's a compound sentence because it talks about attendance and then it talks about annual report in the second part of the sentence. So what I would say is require the chief of police and then insert after chief of police the phrase, where practical, because I think that says then if at all the chief can come, she should



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come and then I can edit language that says, "In the event that she cannot attend, his or her designees should attend the meeting."

Edwin Prather: So it puts an extra emphasis on it, but I do want to show the chief respect to make the judgment, because I think that there are times where the chief cannot attend, and frankly should not attend, because other things would take priority. Just the same with the chief attends public safety committee meetings at times and sometimes she cannot, and always sends a representative. We always get a representative who is typically highly informed and can speak on behalf of the chief. And that's the other thing I think we get, which has shown us great deference, is that usually, the individual who is speaking in the chief stead, is someone authorized to speak on behalf of the department and we don't get someone who's just kind of passing the buck. So I can make that edit if that makes commissioners more comfortable or if there's a thought here that this should be left as is, I could do that too.

Henry Gage, III: Thank you, Commissioner Prather. Commissioner Dorado, you in the queue.

Jose Dorado: Yes. I don't think it should be left as it is. I think we should simply add a couple of words after, or, simply say require the chief police or if not possible, his or her designee. So then if in fact we felt that it was possible for the chief to be there and I certainly would like to see the chief at every instance that's possible. Then it poses the question, of was it in fact possible? And it begs an explanation if in fact the chief was not there and, we think that in fact he or she could have been there. That it could have been possible. So I think the emphasis needs to be that we require the police chief to be there, but we also have the 9, if it's not possible. So in fact we have a hook to come back to, if in fact we felt that it was possible for the chief To be there.

Henry Gage, III: Thank you, Commissioner Dorado. Before moving to Commissioner Harris, I'd like to note for commissioners that when we're talking about charter language, I would caution us all to be very careful about being too specific with our language. [inaudible 01:22:28] are very difficult to change and areas may be subject to... Various may be more appropriately addressed in ordinances or commissioner rules rather than the charter. That said, and thank you for the moment of privilege, Commissioner Harris, you're in the queue.

Ginale Harris: Thank you Vice Chair. I just want to remind and keep everybody reminded that the police commission is not similar... I mean we are under the same umbrella as public safety, however they are... The police department is required to report back to public safety and give them information. When we hold police commission meetings, we are dealing with complaints from the public. We are dealing with things that have happened in the community, concerns from the



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community, discrimination, racial inequality. We are dealing with things and have to deal with things that require the police chief's presence.

Ginale Harris: Our commission is not made just to report back to. So I just want to remind the commissioners, that we hold a little bit of different space than public safety. Public safety, are made up of city council members who are responsible for different things, in different districts, in the city of Oakland. We are responsible for a department that oversees public safety for this whole city. And so I think we have similar things in mind, but we are different, very much so. And so just with that in mind, I would just think of the wording cautiously, but I do think that the police chief needs to be at these meetings when possible. That's it. Thank you.

Henry Gage, III: Thank you, Commissioner Harris. Commissioner Smith, you're in the queue.

Thomas Lloyd Smith: Yeah, my comment is brief. I agree with both Commissioner Dorado and with Commissioner Harris. I think the wording, as it was, or when not possible, or... I think that gets to the point, if it's possible for the chief to be there, the chief should be there, or a designee can take their place when it's not possible. I agree with that sentiment for both Commissioner Dorado and Commissioner Harris.

Henry Gage, III: Thank you Commissioner Smith. Commissioner Prather, you're in the queue. Stand back Mr Prather.

Edwin Prather: I think I'm okay now, thanks. I would suggest that the sentence reads as follows, 'Require the chief of police comma where practical comma to attend commission meetings and if the chief cannot attend in person to attend through his or her designee period.'

Edwin Prather: "The commission shall also require the chief of police to submit an annual report, dot dot dot." The sentence would continue as through the rest of the paragraph. I think, it addresses a lot of issues, it talks about practicality, it also mentions that her attendance would be through a designee, which I think the current section lacks and it talks about in person attendance, where technically she could attend via zoom or by watching on [Ktalk 01:26:15]. So it does add in the in person element as well. I think that this is an edit that would address everyone's concerns and move us forward.

Henry Gage, III: Thank you, Commissioner Prather. Other further comments from commissioners?

Regina Jackson: I can live with the reframed statement.



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Henry Gage, III: Thank you Chair. Seeing no further hands in the queue, it appears to be the will of the commission, that subsection B, number eight, be amended. Do any commissioners have issues with the amendments proposed by Commissioner Prather? Seeing no hands raised, we can adopt by consensus, and move to number nine. Commissioner Prather, would you be willing to draft that edit and submit?

Edwin Prather: Yeah, absolutely.

Henry Gage, III: Thank you. The remainder of page five, appears to be largely unchanged, however, item number 10 moves over to the second page, next page, excuse me. Page number six, point 10, has been amended to add the phrase, "for the chief of police," and you'll note that item 11 has also been edited. Instead of "the chair, the commission attending executive force review boards," instead of "the agency director and OIG, or appropriately as it needs would attend." A pause for a moment.

Henry Gage, III: Do any commissioners have questions or comments with respect to these sections? We'll note for clarity' sake, that questions have been raised from a number of quarters with respect to the procedure for what happens if the mayor rejects the initial panel of candidates proposed by the commission. That procedures outlined in the bottom section, under number 10, it's near the bottom of the screen as shown by Mr. Ruse. I see a hand from Commissioner Harris, you're in the queue.

Ginale Harris: Thank you Vice Chair. So in regards to the police commission selecting candidates and submitting lists to the mayor. In the in this description, it states that the mayor can reject the candidates we give and then we have to come up with another list, and I think that causes room for a continuance of being on a hamster wheel. Because if we are not in agreeance to what the candidate should look like and she rejects them, then we have to start this process all over again. Or I would say that we put some clause in this that says, "if candidates are rejected, there has to be reasonable cause."

Regina Jackson: To your point, commissioner Harris and I agree with not necessarily, reasonable cause, but some form of documentation which identifies why the rejection. Some justification for the rejection. Now I realize that the language in here needs to be as general as possible, but this does just seem to keep going and going and going.

Ginale Harris: Right.

Regina Jackson: Is there any way that we can speak to how the rejection takes place?



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- Henry Gage, III: Commissioner Prather, you're in the queue.
- Edwin Prather: Thanks Vice Chair. I think ad hoc... Vice Chair Gauge and I, kind of went back and forth on this, what's not reflected is there was an edit in here, that absolutely limited the number of times that the mayor, could, quote unquote, go back to the well. But at the end we thought that having this process be as vague as possible made the most sense and here was our thought behind it. What happens in a situation like this, where the mayor rejects candidates, is that it is a substantial economic burden and time burden on the city of Oakland. And so every time that the mayor chooses to reject candidates, first the three candidates, and if she were to reject the additional two candidates, then she will realize both the economic burden and the political burden, that it continues to have on the city.
- Edwin Prather: This coupled with our ability to control the extension of the interim chiefs' contract, creates a place where there is a significant amount of pressure and we feel sufficient pressure on the mayor to participate in this process. I think it is assumed and we would not want to write in, that there is a high level of communication between the mayor and the selection committee and the commission, in regards to what type of candidates are being put forth and who they, are and what qualifications and such, because this is a charter and not a sort of rules of engagement for a selection committee. That to us as the difference, because this is a charter, we feel that we should keep this as vague as possible and we feel that the current language stands on its own and is appropriate. And that to put more detail in it would be appropriate for the ad hoc committee on the selection, for the chief's position interviews, to formulate themselves in a committee setting, just makes more sense. And so that was the thought process behind how Vice Chair Gauge and I came up with this particular edit.
- Henry Gage, III: Thank you, Commissioner Prather. Before we continue with the debate, the question for counsel. Counsel, there was a question raised with respect to requiring the mayor to articulate the reasons for her rejection. I am not an expert in employment law, but I do recognize that there may be issues with respect to identifying deficiencies in applicants for employment. Would you please speak briefly to whether that's a possibility in this case?
- Counsel: All right, thank you for the question, vice Chair. Of course the mayor is going to have the city attorney advising her or him, depending upon, down the line who that mayor is and they would... Of course, any opportunity to opine on reasons for rejecting candidates, could be an opportunity to make a mistake. I would not say that just by requiring that the mayor articulate a reason for the rejection, either of the list as a whole or the individual candidates on it. I don't think that



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in of itself is per se, an invitation to violate employment law. Still, you'd be right in suggesting that, that prospect would be there, and I can imagine how folks from the mayor's office or anyone who's concerned about the city's liability may raise that concern.

Henry Gage, III: Thank you, Counsel. Commissioner Harris, you're in the queue.

Ginale Harris: Thank you. I am not speaking on anything, putting descriptive anything, on what she needs to look for in a candidate. That is not what I said. What I said was, is I do not believe that we should be... This language is so vague and broad, that we've had a difficult time with interpretation and the city attorney believes their interpretation is right and our counsel believes that our interpretation is right. Then we come to, who's right and who's wrong, we have been in that hamster wheel already. And with that said, we don't want to leave openings for hamster wheels.

Ginale Harris: So I'm just saying, if you reject three different people that we select, we have to have a reason why. And it should be expected and it shouldn't be, "Oh well we trust her judgment." I mean, yes she is our mayor however, today we paid \$1.4 million in yet another lawsuit against the city of Oakland. So, that to me... We've had 10 different police chiefs in 14 years. So I don't think people are looking for how much it costs to pay out, to do, I think they are just wanting what they want, at whoever's expense. The \$50 000 they spend on investigating me said that, and now they are laying people off from work. So I want to be clear that if the mayor does not like the candidates we provide to her, then she must have a reasonable reason. That's all.

Henry Gage, III: Thank you, Commissioner Harris.

Ginale Harris: Yes sir.

Henry Gage, III: Do any other commissioners wish to make comments about this item? Commissioner Prather you're in the queue.

Edwin Prather: Thank you Vice Chair. I've heard the comments, especially from Chair Jackson and Commissioner Harris. And I have to be honest, I think that requiring the mayor to provide reasons is violative of employment law, and so I just don't think we can do that. I like the vagueness of it and I understand the concerns, but I think it has to be vague and I think that anything that the committee wants to do, the ad hoc committee, you know that governs giving the selections to the mayor and, the community should make a request like, "Okay, you rejected our three candidates, please provide guidance." To have that as part of a committee setting, just makes way more sense than to put it in any type of charter



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language. So that would be my position on this, is to leave this as is and to address any concerns through the ad hoc committee.

Henry Gage, III: Thank you, Commissioner Prather. Do other commissioners wish to comment on this item? There are no hands. I'll take a moment of personal privilege to note that I'm in agreement with Commissioner Prather and I'm concerned that a requirement in a charter, to provide a written notification could lead to potential litigation. However, I do believe that any such ad hoc, conducting a search, would be well within their rights to request some form of communication from the mayor outlining the reasons for rejection, in order to make their work more efficient. That said, there may be a split in opinion amongst the commission with respect to this item. Any commissioner wish to make a motion to either amend this section or to keep it as is? Commissioner Harris, you're in the queue.

Ginale Harris: I'd like to make a motion, that we amend this section to reflect that if the mayor rejects the three that we propose, that she must give a reasonable reason.

Henry Gage, III: [inaudible 01:39:59] Commissioner Harris, that the mayor will be required to articulate reasons for rejection. Do I have a second?

Regina Jackson: I'll Second.

Henry Gage, III: Second is by Chair Jackson. At this time I'll call the roll. Chair Jackson?

Regina Jackson: Aye.

Henry Gage, III: Commissioner Anderson, you're in the queue.

Tara Anderson: I wonder if there was room for a friendly amendment, as allowed by law.

Regina Jackson: Yeah. Commissioner Harris?

Ginale Harris: Yes ma'am.

Regina Jackson: I'll accept the friendly amendment, will you? Yes I'll accept the friendly amendment. Thank you. Commissioner Anderson.

Tara Anderson: Thank you. Commissioners. Aye.

Henry Gage, III: To restate, the motion is to amend section B, item number 10. To require the mayor to provide written articulation to the commission when rejecting candidates, as required by law. I'll call the roll again. Commissioner Jackson?



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Regina Jackson: Aye.

Henry Gage, III: Commissioner Prather?

Edwin Prather: No.

Henry Gage, III: Commissioner Dorado?

Jose Dorado: Aye.

Henry Gage, III: Commissioner Harris.

Ginale Harris: Aye.

Henry Gage, III: Commissioner Anderson.

Ginale Harris: Aye, I just want to make sure that the record is reflecting the friendly amendment is as allowed by law. I believe you had stated required by law. So it's a permissive amendment.

Henry Gage, III: Thank you for correction... Commissioner Smith?

Rus: No, no. The lawyer in me saw it. No. For myself, I count four affirmative three negative. Motion carries. Take note that subsection B, act number 10 be amended to require the mandatory articulate reasons for rejection in a written communication. And Commissioner Anderson would you please restate, I believe I misspoke with respect to the requirements.

Ginale Harris: As allowed by law.

Thomas Lloyd Smith: Thank you chair. As allowed by law. Moving forward, Mr. Rus, if you'd scroll down.

Juanito Rus: Can I revise your dates real quick cause I'm making edits as we go. So to create language that embodies the motion that just carried and I would add a sentence to the end of section 10 that says if the mayor rejects any group of candidates, the mayor must provide a reason as allowed by law. Does that comport with the language of motion side I guess I didn't get the exact wording.

Ginale Harris: I think it does.

Henry Gage, III: I would suggest that the mayor shall provide written notice to the commission as required by law.



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Juanito Rus: The mayor-

Thomas Lloyd Smith: No, that wasn't exactly it. That wasn't exactly it.

Juanito Rus: Yeah can we-

Thomas Lloyd Smith: That wasn't it.

Ginale Harris: I think close the first time.

Juanito Rus: Okay. So I think that it should be nonspecific to any individual candidates. So that's why I've referenced groups. So that's why it says if the mayor rejects any group of candidates, the mayor must provide a reason as allowed by law. Is that-

Ginale Harris: No, that's, No.

Juanito Rus: Okay. Do give it to me then I-

Ginale Harris: We have to submit. We have to give the mayor three candidates, right? We have to put forward three candidates and they don't come in groups. So what if we don't have three? What if we have two?

Juanito Rus: You have to give her three. It's at least three.

Ginale Harris: Right. Okay. So we have to give her three, but I wouldn't call it in groups, right?

Juanito Rus: Would you call it a list?

Ginale Harris: Yeah, that's...yeah.

Henry Gage, III: [inaudible] I should offer, my apologies. I did not specify the language before calling a vote. Commissioner Harris has the proponent of the motion, would you please articulate your preferred language?

Ginale Harris: Wow. so you want me to say the motion again? I should have wrote it down and I just put motion to require mayor to give us a reason for rejection in written form.

Thomas Lloyd Smith: Does it have to be in writing?

Ginale Harris: I would ask commissioner Anderson since you work over policy a lot, if you could assist us in wording this language.



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Henry Gage, III: Mr Anderson.

Ginale Harris: Thank you commissioners for your confidence and hopefully I won't fail you. Right. My response to the read back by commissioner Prater was that it was in line with my understanding of what I was making an affirmative vote toward. And I believe it encompasses absent having the specific requirement of having it in writing. It encompassed what I thought I was voting on and what you just said. So I guess the point of question at this point is the reference to the list of individuals that in whole is subsequently rejected by the mayor. Then that reason must be in writing to the commission as long as it's permitted by law. Yes. It's essentially what we're asking. What I said isn't nice language for the policy, but I think it covers all the key points that we would like incorporated.

Ginale Harris: Yes, agreed.

Edwin Prather: It's Edwin, why does it have to be in writing? That's new.

Ginale Harris: The writing part is for documentation purposes,

Edwin Prather: But isn't that in an employment law? So I'm already worried about the legality of it and we've added in as allowed by law.

Ginale Harris: Well I'm hoping that the law-

Edwin Prather: Putting it is writing Writing is the last thing I would think you would want it. As a lawyer we don't want to put anything. Is it not enough If the mayor calls the committee and says, here's why I didn't select the list of three, let me go down the reasons. Is that not enough for them?

Ginale Harris: I would say no because she doesn't talk to the whole commission, she talks to whoever she talks to and then she changes things that she says.

Edwin Prather: Well then I think-

Ginale Harris: This is a confidential process. So there should be no question. This is a confidential process.

Henry Gage, III: Counsel, I see you in the queue. Say something.

Ginale Harris: Hello?

Henry Gage, III: Here's your [inaudible 01:49:11].



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Nithasha Sawhney: Can you hear me?

Ginale Harris: Yes.

Nitasha Sawhney: Sorry. Just to add, I think what might be able to balance the concerns around the appointment law issue is that when we're talking about a public employee appointment, which the consideration of any next chief would be, that will allow the mayor and the commission to communicate through close [inaudible] correspondence. So a document that would provide the rationale for the mayor's rejection for a list can be provided to the commission as a closed session personnel document, which would not be a public document, which would not then raise the level of liability or concerns around articulating the reasons for rejecting candidates. And so I think that can address the issue around employment concerns.

Ginale Harris: Thank you.

Henry Gage, III: Thank you counsel. Just asking for record's sake. I believe commissioner Brown may have joined the meeting during debate.

Edwin Prather: Okay. I have language if everybody wants to hear it. So hearing the concerns and what Ms Sawhney said, so adding a line to the end of paragraph 10 that says if the mayor rejects any group of candidates, the mayor must articulate a rationale for the rejection in writing and in closed session as allowed by law.

Ginale Harris: Works for me.

Regina Jackson: That's good. Thank you commissioner Prather. And to your point, Commissioner Gage, Commissioner Brown was on earlier, had to drop off and has rejoined. I don't think, but I think I missed it. Commissioner Jordan has not been with us the entire time.

Regina Jackson: I wonder if we should just approve that language by votes so we know that we got the right thing.

Henry Gage, III: Thank you chair. And thank you commissioner Smith. Given we now have a specific language and please accept my apologies for not specifying language earlier. I'd like to call the question with respect to language proposed by Commissioner Prather to amend section B. I don't remember 10 to add a sentence to the end of that section. Requiring the mayor to provide written notice to the commission, articulating the reasons for her rejection overlooked.

Regina Jackson: In closed session



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Speaker 4: In closed session, thank you chair.

Thomas Lloyd Smith: I second that.

Henry Gage, III: Seconded by commissioner Smith and I'm meeting all panelists to call the wall. Chair Jackson.

Regina Jackson: Aye.

Henry Gage, III: Commissioner Prater.

Edwin Prather: No.

Henry Gage, III: Commissioner Smith.

Thomas Lloyd Smith: Oh boy. Man, I still say no but it's better than before, so yeah, but still no.

Henry Gage, III: Thank you. Commissioner Smith. Commissioner Dorado.

Jose Dorado.: Aye.

Henry Gage, III: Commissioner Harris.

Ginale Harris: Yes.

Henry Gage, III: Commissioner Anderson.

Tara Anderson: Aye.

Henry Gage, III: Thank you Commissioner Anderson. No for myself. The vote is four affirmative three negative. Motion to amend carries. Three commissioners [inaudible 01:53:25]. Excuse me. Any commissioners may wish to make further comment at this time? Being no hands in the queue. As you will note from Mr Bruce's screen, the next item, item 11 replaces sending the chair of the commission With the agency director, inspector general, with their respective [inaudible 01:53:57]. When the Oakland police department convene a force [inaudible 01:54:01]. remainder of section B is largely [inaudible 01:54:15]. As you will note on number 12, there's an edit with respect to the number of attorneys that can provide legal advice to the commission itself. Mr Prater you're in the queue.

Edwin Prather: Speaking to item 11 I wanted to address the public's comments regarding this document and how it should reflect an increase in power and authority and independence of the commission as opposed to a step backwards. And what



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section 11 does is, you know, currently our chair or his or her designee participates in the executive force review board and it has for a few years now. This section would purport to send only the agency director and the inspector general. I've never been in an executive force review board. This change has seemingly been uncontroversial cause I've not seen it come up in the public or no one's debated it, no one's talked about it. But I feel like we should at least talk about it because it feels like we're giving up something here and no one's talking about it. And so I especially like to hear from commissioner Smith and chair Jackson because they have participated in these boards and should we be pushing to continue our role on these boards or is it okay that we're not part of these boards? I know that for example our chair cannot participate in a dis... Or has a hard time with a discipline committee on certain topics when they hear from the executive group. I think I'm confused on the topic and I'd like to hear from others. So that's why I raised it.

Regina Jackson:

So I want to make a buzzer beater. I think that the chair should attend these, although they can be lengthy. The last one was three or four days. It takes a lot from work. But there are some very interesting things that come up the process, which I'm not sure that it was ever really clarified. And certainly the component are very illuminating. They give an eye to policies that are, woefully outdated. And really important to identify. It also gives insights into a lot of the subject matter experts and where the opportunities are in the future based upon the scenaRus that you're able to witness. Understanding and following the lines of question are also, it's an education in and of itself. And I've only attended one. I am not an attorney by background, so it's very, very different kind of environment than I've ever been in. And I found it to be critical to my understanding of the work.

Henry Gage, III:

Thank you chair. Thank you. Chair. Commissioner Smith [inaudible 01:57:46].

Thomas Lloyd Smith:

Okay. So the executive force review board is illuminating and I still remember what I saw vividly to this day and I lost sleep when I attended those meetings. Because it was such a... Eye opening is one way to describe it. But after I left the executive force review board, I felt like I was re-grounded in why exactly everything we do and why this commission is so very necessary for Oakland. I don't even know how to explain it to somebody who hasn't been through an executive force review board. But it is, yeah, it is a illuminating experience. It's an emotionally tormenting experience. And it is an experience that leaves you with a depth of commitment to the purpose that we have for this commission that will be deeper than when you walked in the door because you see everything in its raw footage. And so I absolutely think that the chair should be there unequivocally believe that because I believe that it prepares you to lead in a way that's far greater than before you walked in the door and participated.



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Henry Gage, III: Thank you Commissioner Smith.

Thomas Lloyd Smith: Yeah.

Henry Gage, III: At this time I see no hands in the queue. Scratch that. Commissioner Harris.

Ginale Harris: Thank you. Vice chair. I appreciate all the comments that I'm hearing. However I feel that our executive director has a background in the language and the work that is being done by this board. And just, even though you're a commissioner, we're civilians and we're volunteers and that would place a hardship on any volunteer. And I understand that it's interesting and it can give you more insight on the work that the police officers do, but I think that our ED gets paid to do that. And we rely on our executive director to filter down the information. Even though we are commissioners, we are always learning and I'm sure it is very interesting. I've heard good and bad things about the board. And there's always room for improvement. However I think that this is something that a paid staff should be doing, not someone that is doing a volunteer position for the police commission. Those are just my thoughts.

Henry Gage, III: Thank you Commissioner Harris, Director Alden, you're in the queue.

John Alden: Thank you. So I don't know that I have a strong position about whether the chair of the commission goes or not. And I think that's really up to the commission, not to me. So if it's all right I'll take a pass on that issue. But I did want to say that I really am thankful that there is language in here about the executive director of Cipro and the inspector general going to those force review boards. I think that's really critical. And I liked that about the draft. I'd been quiet so far about things I really like in here because I know we have things that are controversial to discuss and so this is probably not the meeting to talk about all the things that we're in agreement on. I did think that Commissioner PraterFrevies there made an interesting point, which is that it does become more complicated for a member of the commission to then sit on a discipline committee if they've also been to the force review board. And so that's something to consider. But again, thanks for having the agency director and the inspector general on this list. I think that's really important.

Speaker 6: Okay.

Henry Gage, III: Thank you director Alden. Before we entertain further debate. We have a limited question for council on these items. Given the concerns raised with respect to a commission chair participating in a force review board, is there any legal jeopardy if a commission chair Contin... Pardon me, chooses to participate?



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- Regina Jackson: Thank you. Vice chair. I can't give the full, sitting here right now, can't give the full spectrum of all possible [inaudible 02:03:05], but I imagine that there is because the discipline committee is making you know what amounts to employment decisions. So you know, you want that process to be as clean as possible and that is something that, you know, other folks on this during this meeting embraced.
- Henry Gage, III: Commissioner Prather, you're in the queue.
- Edwin Prather: Yeah. So look, I wasn't sure how value added this was for us and having two people, two former chair, a former chair and a current chair go through it is very meaningful to me. I think some of the issue about time commitment and how much that takes can be swayed by the fact that the chair can select a designee to go. And so then that way isn't always the same person going to the EFRB and then that way a chair could serve on a discipline committee and then the next time they could send the vice chair to the EFRB. I think there's enough protection in because there's a designee issue. I think the real question is, I think we can work everything out. The question for this body for the commission is, is it our opinion that we have founded of value and we would like to be continued to be included in that? And if the answer is yes, then this should be amended to reflect that. If the answer is no, we don't find value in it, then then we'll leave it as is. And I think that's the real question at this point.
- Ginale Harris: Should there be a motion at this point?
- Edwin Prather: There can if folks are finished discussing it, then yes, there absolutely could be. If a motion is appropriate or I mean however vice, your gauge, you want to handle this I'm with you on it.
- Henry Gage, III: I see no further hands at this time. Two commissioners wish to make further comments? Any hands in the queue. Commissioner Prater.
- Edwin Prather: I'd make a motion to amend the section 11 to state the following, send the chairperson of the commission comma, agency director comma and the inspector general comma or their designees, comma, to serve as nonvoting members of any department executive force review board.
- Regina Jackson: I'll second
- Henry Gage, III: And moved by commissioner Prater, seconded by Chair Jackson. I'll unmute all panelists and call a vote. Joe Jackson.
- Henry Gage, III: Commissioner



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Edwin Prather: Yes.

Henry Gage, III: Commissioner Dorado.

Jose Dorado: Yes.

Henry Gage, III: Thank you. Commissioner Smith.

Thomas Lloyd Smith: Yes. Yes.

Henry Gage, III: Thank you. Thank you Commissioner Harris.

Ginale Harris: Abstained.

Henry Gage, III: Thank you. Thank you.

Ginale Harris: Excuse me vice chair. Is everybody echoing?

Henry Gage, III: I believe it may have been due to multiple on your mics.

Ginale Harris: Okay.

Thomas Lloyd Smith: Mr chair.

Henry Gage, III: Mr Rus,.

Juanito Rus: When taking a vote, I think practice by the city clerk is to only unmute one individual at a time for that very reason.

Henry Gage, III: Thank you Mr Rus. Continuing after commissioner Harris. Commissioner Anderson.

Ginale Harris: Yes.

Henry Gage, III: Yes for myself. The vote is six affirmative zero negative one extension. Vote carries subsection B. number 11. We've ended to reflect that the chair of the commission or their designee will also be allowed to attend as an ongoing member. Moving forward. Number 13 appears to be an inconsequential. It's not competitive. Moving to sub section C. This will allow me to say when this section's been amended to explicitly articulate, that alternate commissioners are eligible to serve on all committees. Pause for a moment if there are any extra questions or comments.Okay, none. The bottom half of this section you will note has been edited. The draft we received, having specific call out with



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respect to commissioner identification and badges. That section has been deleted in favor of a provision later in this document that deals with ethical challenges and commissioner removals. We'll pause for a moment if any commissioners wish to make comments, or have questions.

- Ginale Harris: Mr. Russo, did you advance the second half please? Yes. Thank you.
- Henry Gage, III: No hands at this time. Sorry. Commissioner Anderson, you're in the queue.
- Tara Anderson: The amendments made to subsection A now reading as current employee of a law enforcement agency. Just want to caution the potential overly broad use of language here that would potentially eliminate two current serving commissioners from being eligible from serving in the future. I being one of those who works for a law enforcement agency. If that is the intent and interests of the commission as a whole to advocate for this change in scope of language, to be inclusive of someone sitting in a role like I do in my day job not serving on this commission, I'd be interested in hearing those arguments.
- Henry Gage, III: I see two hands in the queue. Thank you. Commissioner Anderson. First director Alden.
- John Alden: Thank you. I was gonna mention something similar about C1A. I have been in some environments where people have described law enforcement agency as including the courts in addition to the examples that I think commissioner Anderson was referring to probation departments and district attorney's offices. In a few rare occasions I have seen people also lump in public defender's offices in that regard because of their work in the courts. Now I wouldn't see public defenders as falling in law enforcement agencies, but on occasion I have seen some areas where they've been lumped in, in that regard. And I'm not sure that was the intended result of this section either. I don't know that I have any strong opinion to convey to the commission about how the section should read. But because of that potential vagueness and how this could be read or potentially overbroad a reading, I wanted to at least point that out so that the commissioners could consider exactly whether those broader reaches are what the commissioner was searching for here or... Thank you.
- Henry Gage, III: Thank you director Alden. Commissioner Harris you are in the queue.
- Ginale Harris: Thank you. Vice chair. I, too work for a law enforcement agency, but I work in a civilian capacity as commissioner Anderson as well. So if it is the intent of this commission to do that, I too would like to have dialogue about that. I mean, I have a lot of things going through my head on this revision but I'm going to try to keep it positive and say what is the intent of this? Like what does it mean? Is



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it vague? Does it mean civilian employees? If it does, it should say civilian employees as well. It should not stay as employee of a law enforcement agency. It should say civilian staff as well, I think if that is the intent.

Henry Gage, III: Thank you. Commissioner Harris. Commissioner Smith you're in the queue.

Thomas Lloyd Smith: Yeah. so I don't support that change. I think it should, I think the language should just go back to the way it was, which is current employee of a municipal police department. And so, I don't know. I don't support the change.

Regina Jackson: Commissioner Gage I'd like to weigh in as well. I think that some of the most insightful comments, processes and opinions have come from folks that would be stricken from being able to serve. So I am with commissioner Smith on going back and striking that language.

Henry Gage, III: Thank you, chair.

Henry Gage, III: Seeing no hands in the queue at this time. I'd like to take a moment of personal [inaudible 02:14:02]. I believe the intent of this amendment was to ensure that neither sworn nor civilian staff of a law enforcement agency serve as commissioners to the local police commission. After hearing comments it appears this section is overbroad. Looking into the deleted section I believe this section originally read current sworn employee of a municipal police department, but argue that municipal police departments is somewhat too narrow as it would exclude the local Sheriff's office and perhaps it would more accurately read as current sworn employee or... Strike that. [inaudible] more accurately read as current sworn employee, of a law enforcement agency. Commissioner Harris you're in the queue.

Ginale Harris: Thank you. Vice chair. I mean this was really difficult for me. Trying to figure out what language to use. I mean, there has to be reasoning behind every single one of these reasons, right? And we could say, well, we don't want politicians on there either, but we'd have to have a reason. And we have really good reasons why we shouldn't have politicians on this police commission, right? Because of political agenda. However, I just think, I didn't even see a reason why we even touched what we had in the measure LL before. Is there a reason why this was even revised? Where did the revision, why did we touch this if this wasn't even a concern, is my question.

Ginale Harris: Is my question.

Edwin Prather: Vice Chair?



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- Henry Gage, III: [inaudible 00:00:12].
- Edwin Prather: Yeah. So let me add some guidance onto this, because I think folks are asking the different iterations and history behind the edit. First let me say, in no way, shape or form, is this meant to single out or identify Commissioner Anderson or Commissioner Harris for the great work that they've done. This is a mistake. Okay?
- Edwin Prather: But, my recollection here is that this language was changed and the first edit came from eliminating the word "sworn". And so in our first debate or this Vice Chair Gauge and I looked at current employee of a law enforcement agency. Or sorry, of a municipal police department. And then it was raised, "Well, what about other types of officers who aren't in a municipal police department?" Okay, well that can't happen.
- Edwin Prather: And so it seems that the fact that there are really two different edits here that affect what the end result is ... But the intent of it was to eliminate all types of officers, which felt like what the original intent of the language was trying to address. That all types of officers be precluded from serving as commissioners.
- Edwin Prather: But to everyone's point, it's not like this issue has come up. It's in order to get to a particular place. I think someone would have to get through vetting currently, whether it be through the mayor's office or through the selection committee. And so maybe that's enough of a safeguard here where we don't need to further clarify what we thought was ... Maybe we were trying to make a change where a change didn't need to be made. But I do want to reiterate and apologize if this edit has offended either Commissioner Anderson or Commissioner Harris, because that certainly wasn't the intent.
- Edwin Prather: The intent was to try to make it more clear. And I'm a big boy, I can step up and say, when I've tried to wordsmith something and it hasn't worked out, which clearly in this case it hasn't worked out. So going back to this, it may be appropriate just to roll it back to what it is. I don't necessarily know that there's a correct change here that makes it better. And in the absence of something making it clearly better I would just want to leave it as is.
- Henry Gage, III: Thank you, Commissioner Prather. Commissioner Smith, you're in the queue.
- Thomas Lloyd Smith: Yeah, I'll say it again. I think we should leave it as it is and move on.
- Henry Gage, III: Thank you, Commissioner Smith. Commissioner Harris, you're in the cue.



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- Ginale Harris: Thank you. I'd like to remind the commission of what the original measure said. It said, "Current sworn police officers. B, current city employee. C, former department-sworn employee or D, current or former employee official or representative of an employee association representing sworn police officers." This came from city council change. Right? So I think the intent was law enforcement officers, not civilian staff. But I don't. I'm not in their head. Right?
- Henry Gage, III: Perhaps a point of clarification, the edit to remove "sworn" and add "law enforcement agency" I believe was one made by Commissioner Prather and myself. And it does appear to be erroneous after, during debate. I see Commissioner Anderson, you're in the queue.
- Tara Anderson: Just appreciating the clarification around the intent of the revision. I take no offense and I appreciate the opportunity for us to dialogue on who is most appropriate to serve in this capacity. So, no offense and thank you for stepping up and owning what was not the intent. I appreciate it very much. Commissioner Prather.
- Henry Gage, III: Thank you, Commissioner Anderson.
- Edwin Prather: Vice Chair, I would say this. I don't think it ... Frankly on reflecting on this further, this is a political issue now to me. It isn't really our place to say who should serve and who isn't, unless it's in reference to the abilities of someone to serve, because we've learned something as commissioners.
- Edwin Prather: I don't think we should wade into these waters regarding this. This is not what the people ... We hear all the time 83% of the people voted in favor of it. To change this language, there would have to be something seriously wrong with it and there's not. So I agree with Commissioner Smith. We should just put it back to the way it was. Apologize for making this edit and move on to the next topic.
- Henry Gage, III: Thank you Commissioner Prather. [inaudible 02:21:49] further hands in the queue. It appears to be the role of the commission that this item be returned its original form, as stated in the current city charter. And, actually be, number 1A, be returned to the original language of "current sworn police officer." If it's an understanding of the running [inaudible 02:22:23] kindly request that a commissioner raise their hands or otherwise notify. Seeing no hand and following debate, removal of language appears to be by consensus.
- Henry Gage, III: Moving forward. Number Two. You will note this item adds language to address also the commissioners. Similar languages added to Number Three. Following the debate with respect to C1A, it appears that C3A should also be [inaudible 02:23:26]



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- Edwin Prather: Vice Chair, I don't have it in front of me. Just for clarity sake, C1A did not go back to "current sworn employee of a municipal police department". It went back to "current sworn police officers". Is that right?
- Henry Gage, III: My understanding is that it's the role of the commission that that section return to the language that is currently in the charter.
- Edwin Prather: Okay. And that language is "current sworn police officer"? I don't have the original charter in front.
- Henry Gage, III: That's correct. I'm looking at the charter online and it's "current sworn police officer".
- Edwin Prather: And we should make whatever is in the charter consistent in section three. And so I just want ... Can you provide that language?
- Henry Gage, III: I'll look for it now. It does not appear that the language in section 3A is reflected in the current charter. That section under 3A, [crosstalk 02:25:09] one through five appear to be new additions.
- Edwin Prather: Uh-huh (affirmative).
- Henry Gage, III: For the purposes of clarification and for the public, this Section Three and Section A is discussing the composition of the nine-member selection panel. And this can be seen on Mr. Reese's screen. Numbers one through five, underneath A are disqualifications for people who will not be eligible to serve as a selection panel member.
- Henry Gage, III: Pardon my delay. Commissioner Harris, you are in the queue.
- Ginale Harris: Thank you, Vice Chair. So, one of the concerns with this section ... and I had a concern with the time allotment that one is able to serve as a term. So you have a time allotment for commissioners and you don't have one for selection panelist. So I'm not sure what the reason of that is, but it doesn't make sense to me. I think, giving different people opportunity to serve as selection panelists. I think they too should have terms.
- Henry Gage, III: Commissioner Harris, I believe the question of selection panel membership and the term is addressed under D, that is 3D. Mr Reese would you please scroll.
- Ginale Harris: Got it. Thank you, Vice Chair.



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- Henry Gage, III: Returning to Number 3A. And then that's the subsection. And for clarity sake, the nest of subsections underneath Section 3A is new language, which is not currently in the present charter. Given the debate previously with respect to disqualifying factors, any commissioners wish to make comments on this section?
- Edwin Prather: It would be my druthers to not make changes. Well, basically to not weigh in on this ... on these topics regarding the selection panel criteria. This just seems like the will of something that isn't the commission. And to roll the language back to whatever was originally in the charter. It doesn't seem like this amendment changes much. So I would just as soon delete it, so that we're not looked upon as supporting it.
- Henry Gage, III: Commissioner Harris, you're in the queue.
- Ginale Harris: I agree with Commissioner Prather. I think we should just leave it alone. By changing it, it seems as if we support the changes and I don't think this is our arena.
- Regina Jackson: I agree.
- Thomas Lloyd Smith: I agree too.
- Edwin Prather: Vice Chair, which subsection of A is new? is it just two? Is it just I, I? Or is it more than that?
- Henry Gage, III: One moment, please.
- Ginale Harris: Can you scroll the page up?
- Henry Gage, III: Comparing the language of the current charter to the draft received from the city attorney's office, the paragraph labeled A does not include the sections one through five. That is [inaudible 02:29:36] language. And the sentence, "The following shall not be eligible to serve as a selection panel member," is new language.
- Edwin Prather: That whole section is new? All the sub-subsections?
- Henry Gage, III: It appears that all the sub-subsections are new language. After debate, it appears the role of the commission is to express no opinion on this section. Any commissioners wish to make comments? Or call a motion. Commissioner Harris, you are in the queue.



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- Ginale Harris: If this is all new language here ... So, this was not even in the previous measure. It says "current or former employee of law enforcement agency." That again, would ... I worked for a law enforcement agency, but I am not a sworn officer. So I think the word "sworn" is stricken and I think it should be unstricken.
- Henry Gage, III: Thank you Commissioner Harris.
- Edwin Prather: Vice Chair?
- Henry Gage, III: Commissioner Prather.
- Edwin Prather: I would move that we submit in our letter to the city council that the commission takes no position regarding the qualifications. Or ... oh, what's the word I'm looking for? The qualifications or the [crosstalk 02:31:34] Or the disqualifying factors as to members of the selection panel. Simply as that.
- Henry Gage, III: Commissioner Harris?
- Ginale Harris: I think this is tricky, because I do think if they're going to put it in the charter, I think we should have some say in it. At least having an opinion on it, because then when they vote on it and we don't like what they vote on, then we're going to have an issue with it. And so I think we should at least weigh in our opinion. We all sit together and we agree to disagree.
- Ginale Harris: So I think this is one of those times. And it may be political, but this is our job. There's a lot of stuff that's political about what we do, but the right thing is the right thing. Right? If you're not going to have police officers on the commission, then why would you have them in the selection panel?
- Henry Gage, III: Thank you Commissioner Harris.
- Ginale Harris: Mm-hmm (affirmative).
- Henry Gage, III: It's moved by Commissioner Prather that the commission express no ... Commissioner Prather, would you please restate your motion for clarity?
- Edwin Prather: I would move that we include in the letter to city council that the commission takes no position regarding the qualifications or the disqualifying factors regarding the members of the selection panel.
- Regina Jackson: I'll second.



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Henry Gage, III: It's been moved by Commissioner Prather. Second by Chair Jackson. We'll call the roll. Chair Jackson?

Regina Jackson: Yes.

Henry Gage, III: Commissioner Prather?

Edwin Prather: Yes.

Henry Gage, III: Commissioner Harris? Stand by, please. Commissioner Harris.

Ginale Harris: Hello? Can you hear me?

Henry Gage, III: Yes.

Ginale Harris: Okay. Abstain.

Henry Gage, III: Thank you. Commissioner Dorado?

Jose Dorado: No.

Henry Gage, III: Commissioner Smith.

Thomas Lloyd Smith: Yes.

Henry Gage, III: Commissioner Anderson.

Tara Anderson: No.

Henry Gage, III: Yes, for myself. The vote is four affirmative, two negative, one abstention. Motion carries. The commission will express no position with respect to the qualifications for membership in the selection panel. Before moving on, do any commissioners wish to make further comments? And no hands in the queue.

Henry Gage, III: Moving forward. Please note that the top of page number eight, that's got the selection panel procedure. Do any commissioners wish to make comments on this section?

Regina Jackson: So I have a comment. Given the fact that we've just taken an affirmative vote not to take a position on the selection panel, wouldn't we then strike all this language related to the selection panel?



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- Henry Gage, III: I believe the previous vote was to take no position with respect to membership of selection panel, but the remainder of the language deals with selection panel procedure, which is slightly different but related.
- Regina Jackson: Oh, okay. All right. Thank you.
- Henry Gage, III: Thank you chair. Commissioner Harris, anything?
- GINALE HARRIS: I am in agreeance with Commissioner Jackson. Yes, they are slightly different, but this is the same umbrella. So I don't feel like we should take a position on this either.
- Henry Gage, III: Thank you Commissioner Harris. Are there any further comments from commissioners?
- Edwin Prather: I'm sorry, Vice Chair. Is the question on the floor, because we are taking no position on item 3A in regards to the qualifications or disqualifications of the selection panel, that we should also issue a statement in regards to C1 that we are not taking a position about the qualifications or disqualifications of commissioners?
- Regina Jackson: My thought was that most of this deals with the selection panels. So B, would not be germane. I just think that-
- Edwin Prather: Oh sorry. You're still within three.
- Henry Gage, III: That's correct. Yes.
- Regina Jackson: Can you just pull back ... yes.
- Edwin Prather: Okay. I'm sorry, I misunderstood. I'm sorry Madam Chair. My-
- Regina Jackson: [crosstalk 02:38:20] That's fine. I'm interested in hearing any other thoughts about it, but it just seems a little strange that if we're not going to take a position on membership, then why do we dwell down to the other components of it?
- Edwin Prather: Well, I think that the counterpoint to what you're raising is that we're not necessarily ... The edits that have made are just typographical edits. We're not editing for content. And I would not mention in our letter anything about paragraphs B, C, and D.
- Regina Jackson: Oh okay. Then that answers that question for me.



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- Edwin Prather: I would just leave it moot and just say the sentence that got voted on now, which is about the qualifications or disqualification.
- Regina Jackson: We're in sync. Thank you.
- Henry Gage, III: Thank you Chair. And thank you Commissioner Prather. Moving forward to the bottom of page eight. This language is unedited and deals with commission's term. Do any members of the commission wish to make comment on these items. Commissioner Brown, you're on queue.
- Chris Brown: Thank you. I'm curious if there is value to the phrase "no more than one year"? And whether that could be changed to simply say "less than one year"?
- Edwin Prather: Commissioner Brown, could you point out your edit, because there's two "no more thans". Are you referencing both places?
- Chris Brown: I'm referring to item number five, where it says-
- Edwin Prather: The first one or the second one?
- Chris Brown: Where it says "commissioner serving a term of no more than one year shall be allowed to serve two judicial consecutive terms." I would change that, or wonder if there's value in keeping that? Or whether we can change it to "commissioner serving a term of less than one year"? So we allow the server two additional consecutive terms.
- Henry Gage, III: Thank you, commissioner Brown. I see no further hands in the queue at this time.
- Edwin Prather: I think that's good. We're [inaudible 00:02:41:15]. I made the edit in the draft.
- Henry Gage, III: Thank you.
- Regina Jackson: So I wonder on, I guess, Number Four, where the talk about staggering, and then "after our first staggering, then everybody will be three years." But then, to Number Six ... It's still facilitating staggering.
- Henry Gage, III: I believe Chair that Number Six addresses the first group of commissioners and not any subsequent commissioners.
- Regina Jackson: Got it. Okay, thank you.



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- Henry Gage, III: Thank you Chair. I do not believe there are any objections to the edit made by Commissioner Brown on Number Five. Moving forward. If there are, would commissioners please raise their hand. I see no raised hands at this time.
- Henry Gage, III: Moving forward. The top of page nine. As you'll see, Number Eight has been amended to add language with respect to alternate commissioners. Mr Reese, would you please scroll to show Numbers Nine and 10 on the same page. It appears that we can only view Number Nine at this time. If you'll please center Number Nine on the screen. Thank you.
- Henry Gage, III: Number Nine has been substantively edited. As you'll note, the language at the end of Number Nine places responsibility on the city attorney to provide or coordinate training for commissioners. Any commissioners wish to make comments on this item?
- Regina Jackson: I actually like the change in the language. I recognize that there are a variety of people who don't have flexibility with their jobs and that is not their fault. And heretofore, we've not had the opportunity to have training whenever we could ... evening, weekends, what have you. So this concept of a training library I think is outstanding. And it certainly comports with where we are in the world around, you know, accessing technologically. So thank you for that.
- Henry Gage, III: Thank you Chair. Commissioner Harris, you're in the queue.
- Ginale Harris: Thank you Vice Chair. I think we've learned that majority of our training, the city attorney's office was responsible for giving it to us. So we were on their time and they rarely made themselves available or it had the appearance of, which is why some people did not complete their training, which does not look good on an audit.
- Ginale Harris: So, I would like to have some language in here that really holds them accountable for making the space for people to do the training, and making it their responsibility to reach out to us, to give the training ... or to the commissioners I should say. Because, at one point I won't be here.
- Henry Gage, III: Thank you Commissioner Harris. Commissioner Prather. You're in the queue.
- Edwin Prather: Thanks Vice Chair. So the edit here tries to strike a balance. The language that was deleted was very accusatory and smacked of commissioners ... Look, when training doesn't happen, you can blame the trainer or the trainee. And, frankly, it's not fair to blame anybody. Just for circumstances that are beyond everyone's control, things didn't happen on a nine-to-five schedule. That just is what it is.



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- Edwin Prather: But what the language attempts to do is one, place the city attorney responsible to provide or coordinate orientation and training. Because I think what we saw was a lack of ownership of the process by the city attorney's office. But something that we felt, especially after living through this Zoom era, and something we've always asked for is to make training available either through video or some kind of training library, or something that commissioners can train on their own schedules, on weekends or at night ... or what have you ... in order to do things, because the issue isn't the desire of commissioners to get trained. The desire is, is that when you work from nine to nine every day, sometimes you gotta ... They gotta train you at 10:00 PM. Or they gotta train you on a Saturday. Or they've gotta do something else and that wasn't happening. And that's not necessarily the city attorney's fault. They have a nine-to-five job. They work, that's just what happens.
- Edwin Prather: But by having other methods of training available to us, it helps put the onus back on us, because ... Look, if there are 50 videos you gotta watch and in 90 days ... Okay, well then you gotta watch 50 videos in 90 days. That's on you to finish. And so that's what this edit tried.
- Edwin Prather: It tries to take away blame from the situation and tries to inject solutions and something more positive going forward. So that's what Vice Chair Guage and I thought in making the suggestion.
- Henry Gage, III: Thank you Commissioner Prather. Commissioner Smith. Thank you.
- Thomas Lloyd Smith: Yes. The issue that is missing here and then I think that we should address ... because it's been such a formidable one for us is ... So, let me say a couple of things. One, I do like the edit, but it says "the city attorney shall be responsible for providing or coordinating an orientation and training to the commission." I would just add "on a schedule that is approved by the Oakland Police Commission." Because they can offer it at anytime they want. And one thing that I fear is that maybe they take part of our suggestion but not another, but the language that's still there is, "Any commissioner who fails to attend the required training after such training is offered three times shall be suspended and deemed ineligible to conduct commission business and may be subject to removal by the city council."
- Thomas Lloyd Smith: I mean, based on what we've seen so far, where the city ... We really had to push hard just to get trainings available that weren't between the hours of nine to five. And so, if that is left as it is, you could have a situation where ... Well, the city attorney's office just decides not to offer trainings when certain commissioners can't attend. And then all of a sudden, they fall into a penalty



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and they're deemed ineligible to conduct any commission business and subject to removal of city council.

- Thomas Lloyd Smith: So I think adding a provision in there that says "on a schedule that's approved by the Oakland Police Commission", means that okay [inaudible 02:49:28] We agree upon a schedule. The body approves it. So everybody knows what the circumstances are and then people go ahead and attend.
- Regina Jackson: Excellent point.
- Henry Gage, III: Thank you Commissioner Smith. Commissioner Harris. You're in the queue.
- Ginale Harris: I agree with Commissioner Smith. We had to fight tooth and nail to get anything. We were constantly reminded that they only work from nine to five. And them knowing that we're volunteer commissioners.
- Ginale Harris: And them knowing that we're volunteer commissioners really sent a message and set a precedent that we're not valued. For me at least I'll speak for myself. However, I do believe that training, you know, there should be, some other training as well, not only from the city attorney's office but through post as well.
- Ginale Harris: And I believe that commissioners that sit on the police commission have to have an understanding of certain kinds of things that police officers do on a daily basis and how the chain of command works. This is a paramilitary agency and commissioners need to know it and understand it and should be somewhat of an expert, subject matter experts on something that has to do with our work. And so I don't think it should all rely on city attorney's office. I think it should also have something to do with post certification.
- Ginale Harris: I just feel like that will make the commission a little more attractive and there's commitment that has to be put down. You know we are all committed here doing this work and you know, not only will we be doing the work, but you know we'd have something for ourselves too that we can take away with us. So that's
- Henry Gage, III: thank you Commissioner Harris and Commissioner Prater here in the queue.
- Edwin Prather: I move that we accept that edit adding at the end of the first sentence on a schedule that is approved by the commission period. With that edit, I'd like us to approve this edit and move on to the next item.
- Thomas Lloyd Smith: I second.



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Henry Gage, III: It's been moved by commissioner Prater, second by commissioner Smith that this section be amended to reflect that trainings-commissioner Prater would you please restate your motion for the record?

Edwin Prather: That at the end of the first sentence of the edit be added the phrase on a schedule that is approved by the commission period.

Henry Gage, III: At this time we'll call the roll. Commissioner Jackson?

Regina Jackson: Yes.

Henry Gage, III: Thank you. Commissioner Prater?

Edwin Prather: Yes.

Henry Gage, III: Thank you. Commissioner Harris? Commissioner Harris?

Ginale Harris: Hello? Can you hear me?

Henry Gage, III: Yes.

Ginale Harris: Abstain.

Henry Gage, III: Thank you. Commissioner Dorado?

Jose Dorado: Aye

Henry Gage, III: Thank you. Commissioner Anderson?

Tara Anderson: Yes.

Henry Gage, III: Thank you. Commissioner Smith?

Thomas Lloyd Smith: Yes.

Henry Gage, III: Thank you

Henry Gage, III: There are six votes in the affirmative. Zero vote, negative one extension. The vote carries. In section nine will be amendment as stated. Before we move forward do any commissioners have any further comments to make?

Henry Gage, III: Is commissioner Prater in the queue?



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- Edwin Prather: Oh I'm sorry. I had a comment as to section 10 the next section, not. So I'll defer if anybody else wants to talk about nine.
- Henry Gage, III: Seeing no additional hands move to section 10.
- Edwin Prather: Great. So in section 10 is a section that we previously discussed when we were talking about A5, I know there's a lot of numbers and letters jumping around, but before the last sentence of this paragraph that starts the public ethics commission chow, if everybody can find that that sentence. I would like to insert the sentence. The city administration shall not initiate an investigation of a commissioner unless required by law or collective bargaining agreement. That has been vetted as as by legal as the most friendly to us, and also in comports with labor and employment laws and also strikes the balance that we need and that wasn't present when this line was included earlier in section A5 so that would be the edit that would be suggested for this paragraph.
- Henry Gage, III: Thank you commissioner Prater, commissioner Harris you're in queue.
- Ginale Harris: Thank you, vice chair. The only problem I have with that is that we are not employees of the city of Oakland. And so how does that apply to us?
- Edwin Prather: It, it, it doesn't, that's kind of the point. It's like they're not going to be able to investigate us because we're not employees because they won't be allowed to by law and they aren't allowed to by collective bargaining agreement because we're volunteer commissioners and it is a clear statement that they shall not investigate absent those authorities. So it's, it's saying that they can investigate us. And that and that any investigation in nerves to the public ethics commission, which is the right, which is the right place for this and it has been this entire time.
- Ginale Harris: Right? But is there any room for, if you do, because this one got away scot-free and she knew it and so what if they do? Then what? Is that grounds for dismissal?
- Edwin Prather: I, I would, I wouldn't opine on that. I would defer to legal because I think that that deals with who's doing the investigation and what the purposes are and everything else. But I mean the sentence here is a very clear instruction as to what can and can't be done.
- Ginale Harris: Okay. Well my question is I just, you know, this document doesn't have any teeth for me. Like people are not understanding what, you know, these are people's lives you're playing with and she played with my life and it did not feel



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good at all. Like posttraumatic stress, all of it. It does not feel good at all. And she just walked away into the sunset.

Ginale Harris: So where are the teeth in this? Because okay, you can do it and if you do, what? That is the efforts that I'm looking for from this commission. Like if you do this then this will happen. Like, Oh it can, you know, they have clauses in here that says the removal, it will be referred to city council for removal. Okay. Well same thing here, because people not do not follow their own rules here. And so we are the only ones held accountable for anything. And so I'm asking this commission to hold the city administrator accountable as well in this document.

Regina Jackson: It's a good point. Very good point.

Henry Gage, III: If I may take a moment of privilege before commissioner Anderson, I'm unclear as to whether we have the authority to hold the city administrator accountable in the fashion you're proposing via this section of the charter, but that'd be curious [crosstalk 02:59:49] what commissioner areas is proposing.

Nitasha Sawhney: yeah, I, yes, this is Natasha. The question of can the city administrator be held accountable through this I think is a slight, is a bit hard from that frame because I think the issue is can the rule of this, this is trying to define the role of the city that would include the city administrator in this place, the ethics commission, you know, in terms of what the scope of their duties are or are not.

Nitasha Sawhney: To get to the point where you say, well, if this is violated then this will happen. Like that was probably, that may get to your question. Commissioner Gage and I and I and I think that that might be a difficult place for this document to to go to hit all the way cause this is the charter language related to the commission and how there will be this, this engagement related to commissioners. So the question of when an investigation occurs, what should be the basis of that investigation and when can that investigation information be the basis of a removal of a commissioner. That all falls within the scope of 10 and I think that answering that question, will serve both the commission and the city in terms of how does, what is the appropriate scope for investigation and what is not the appropriate scope of the investigation.

Henry Gage, III: Thank you council. Commissioner Anderson. Thank you.

Tara Anderson: Thank you vice chair Gauge. My kind of statements, questions were along those lines and I don't think that we have, obviously you can do anything in a charter amendment but I think detail beyond what's been discussed would put us at conflict with labor protections in place for staff and the city's duty regardless of whether someone is a vendor, a volunteer. But if there is a practice like say of



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harassment or other things that their responsibilities to their employee would require them to initiate an investigation and I know that's, I guess maybe I'm asking for clarity of that. Can all be confirmed through the process of the ethics commission or does the language around the bargaining agreement and compass that case scenario?

Nitasha Sawhney: Is that the question for me? Commissioner Anderson?

Tara Anderson: Oh, that was before. All those thoughts were in my head before you spoke. I apologize. So I guess maybe.

Nitasha Sawhney: So a question to vice chair Gage and commissioner Prater. As the authors of this suggested amended language, can I just ask if the suggested amended language is on the screen?

Henry Gage, III: I do not believe it is suggested language. At this point. Commissioner Harris has raised the issue of this section of holding members of the commission accountable and she's issued a concern with respect to what happens if the city administrator decides to initiate an unfounded investigation.

Nitasha Sawhney: Point of clarification. Vice-chair Gauge, although there isn't amended lack language right before us commissioner Prater recommended amended language based on our conversation of the earlier subsection three, I believe it was.

Edwin Prather: A5.

Nitasha Sawhney: Sorry.

Edwin Prather: It's okay. A lot of numbers, a lot of letters. So that language was the city administration shall not initiate an investigation of a commissioner unless required by law or collective bargaining agreements.

Henry Gage, III: Thank you, commissioner Prather.

Edwin Prather: Of course.

Henry Gage, III: My understanding of that section, it stopped. It would then mean that if the city administration undertakes an investigation outside those limits, they would be subject to whatever judicial remedies would be available to the individual. Would that be accurate?

Edwin Prather: That's my understanding.



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- Henry Gage, III: Thank you. Commissioner Dorado, you're in the que.
- Jose Dorado: yes, thank you. My question is, I don't understand the relationship to the proposed language by commissioner Prater and a collective bargaining agreement. Can you speak to that?
- Edwin Prather: Yeah, so really I, I, I don't think anyone has an issue with the first half of the sentence, which is the city administration shall not initiate an investigation of a commissioner. After than, The phrase, unless required by law or collective bargaining agreement is meant to set up that if the administration had such cause then they could end it because I don't think we can have them agree to something that they are entitled by law to do. And so legally I think we are covering our bases by including that language. I will defer to our account, our learned counsel Missoni on that, but I believe that that second half of the sentence, while appearing to be disjointed, actually makes the phrase stronger and or the sentence stronger and that's why it's included. But again, I'll defer to counsel because the other option is just to draw, put a period after, or before the word unless so Missoni.
- Nitasha Sawhney: Thank. Thank you. I think that the, you know, collective bargaining agreements address workplace conditions for unit members, unit members or those that work for the city under a collective bargaining agreement. So I don't believe that phrase provides you any benefit. The, strongest part of that is shall not investigate a commissioner and the, unless required by law, it would limit it somewhat, but most investigations will fall under the term, the issues described by commissioner Anderson, which are, if there are allegations of harassment or discrimination, any employer has an obligation to investigate those regardless of the status of the person engaging in the conduct. It could be a vendor, it could be a commissioner, it could be a member of the public. And so I just think it's, it's important that while this language is strong in terms of limiting that scope, it is not, it is probably legally impossible to completely limit the city administrator's ability to do any investigations.
- Henry Gage, III: Are there further comments from commissioners at this time? Commissioner Harris you're in the queue.
- Ginale Harris: Thank you. This is for council. So does that limit, does that mean that she can invest? I mean we can't have any language in there that says she cannot. We're volunteers. We do not work for- [inaudible 03:08:28]
- Regina Jackson: I think the dynamic is different.
- Regina Jackson: They have all the power,



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- Ginale Harris: which is why we need to be independent.
- Regina Jackson: Yeah.
- Ginale Harris: Independent means just that independent, and this is the argument that should be made when we go before the city council because this, like I said, she is like she was, I say she but the city administrator as an entity, they hurt people's lives and don't care whether we are doing something good for Oakland or not. It doesn't matter. That's not her concern. Her concern is doing whatever it is she does and continue to do it in the fashion she likes to do it. And when we disrupt that as an agency, then she singles people out and she goes after who she believes is the weakest link.
- Ginale Harris: And that's not okay and there has to be protections put in place for people on this commission. Within our charter. We have lots of discrepancies with our charter and that's the problem that I have. Like there's a current one that the city council still has not figured out yet in regards to the mayor's involvement with the police chief. And I believe a member of the public comes up there every single time and he says it to us and it is there in writing and nobody wants to acknowledge it. But when we go against something in the charter, it is always, always made. We are made to be held accountable for what's in the charter. But I mean, what's good for the geese should be good for the Gander.
- Ginale Harris: And that's all I'm trying to do is their needs. This is not going to be attractive to anyone if they are not protected.
- Henry Gage, III: Thank you. Commissioner Harris. Council.
- Nitasha Sawhney: Thank you. I, my recommendation would be that the language has proposed is beneficial to commissioners who are worried about being about the city, engaging in investigations that are outside of of the realm of allegations of harassment and discrimination. So I think that that recommended language is beneficial, especially in light of our, of the commission's recent history. Can you have language that completely isolates any and all investigations? I don't believe that's possible. So, and I don't know that there's any like layer of quote unquote independence that gets you any closer to that.
- Nitasha Sawhney: So, my recommendation would be that the language as described that says the city administrator shall not, and this is, I'm not seeing the language, based on my recollection. The city administrator's office shall not investigate commissioners unless required by law while has, you know, while not perfect is better than where you're at.



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- Henry Gage, III: Thank you counsel. There are no additional hands in the queue at this time. Do any commissioners wish to move to take action on this item as proposed?
- Edwin Prather: vice chair? I've moved that. The phrase the city administration shall not initiate an investigation of a commissioner unless required by law or collective agreement be inserted before the last sentence beginning the public ethics commission shall.
- Henry Gage, III: Thank you. Is there a second?
- Regina Jackson: I'll second. I mean if that's the best we can get.
- Edwin Prather: Thank you. The move back, commissioner Quaker and seconded by chair Jackson and just a moment I'll call roll. Commissioner Harris, you're in the queue.
- Ginale Harris: Vice chair. Can we do something like after we after we take the vote? If we could just add to the letter the concern we have with with the investigating of the commissioner. I think it's important that we emphasize that we do not support that kind of behavior and that we certainly don't condone it.
- Henry Gage, III: Thank you, commissioner Harris. I do believe that we can speak by consensus that the investigation of the commissioner should be conducted by the ethics commission and not by the administration. However, I do not wish to speak to the body, so I will proceed to call the roll and open up for comment on the letter. While I call the role I ask that the commissioners do not raise or lower their hand. Now that makes it difficult to call the role in order.
- Henry Gage, III: Chair Jackman?
- Regina Jackson: Yes.
- Henry Gage, III: Thank you. Commissioner Quaker?
- Edwin Prather: Yes.
- Henry Gage, III: Thank you. Commissioner Dorado?
- Jose Dorado: Hi.
- Henry Gage, III: Thank you. Commissioner Anderson?
- Tara Anderson: Yes.



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- Henry Gage, III: Thank you. Commissioner Smith?
- Thomas Lloyd Smith: Yes. Yes.
- Henry Gage, III: Thank you. I must apologize for a moment. As the list of the commissioners has been shifting. I do believe that is everyone with the exception of myself.
- Ginale Harris: You forgot me.
- Henry Gage, III: Pardon me, Commissioner Harris?
- Ginale Harris: Yes.
- Henry Gage, III: Thank you.
- Henry Gage, III: Please excuse my exclusion that was unintentional. The vote is seven affirmative. Zero negative. Zero abstaining. Vote carries. Language proposed by commissioner Prater will be added. moving forward, so section D meaning it's rules and procedures. Let's take a moment of privilege to note that we are moving through section D. This document ends in section I and they will have, you're likely to have substantive discussion with respect to investigations and adjudication and G with an eye toward the time. I'd like to request that commissioners try to be brief in our comments moving forward.
- Henry Gage, III: As you will note, we've made no substantive edits or really good if there's any kind to subsection D, do any commissioners wish to make comment on this section?
- Henry Gage, III: Seeing no hand.
- Henry Gage, III: moving forward to section E. I just see items one and two have not been edited. Do any commissioners wish to make comment on these items?
- Henry Gage, III: Seeing no hands looking forward.
- Henry Gage, III: Items three, four and five. Item three has not been edited. Item four has been edited to change the ratio of investigators. Item five has not been edited. Director Alden, you're in the queue.
- John Alden: Thank you, vice chair Gauge. As to section E four I wanted to mention two things. One is I wanted to thank the members of the Ad Hoc for suggesting a change here to a ratio of one investigator for every 70 officers.



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- John Alden: I had suggested that to the members of the Ad hoc because I was looking at another provision further down in these charter amendments in which there's a suggested edit from the council that CPRA be done with all of its investigations and 250 days. Ordinarily state law gives us a year, so that reduces the number of days by a little over a hundred and that would necessarily force us to have larger staff to build a case to get cases done a little bit faster because the time changed the amount of time to do each case was roughly about a third after a little bit of back of the envelope math. I think that this 70 ratio, one investigator, every 70 officers with about hit about a 30% change in our number of investigators, which would then I think counterbalance that increased speed we need to hit. I think the 250 day goal that's listed later is a really good idea. It's just I think we'll need more staff to make it happen.
- John Alden: The second thing I wanted to mention about E4 is in the middle of the paragraph and the second sentence, the section reads that the number of investigators shall be determined at the beginning of each budget cycle based on the number of sworn officers employed by the department the previous June one. There has been some discussion internally in the city about what the previous June one would mean. Normally the city is in the course of approving a budget in late May and early June, so this date falls right in the middle of the process of finalizing the budget at the council, so its been suggested by some of our budget staff that it would create greater clarity if this date were a little bit different.
- John Alden: Perhaps say April one which is around the time that proposed budgets are being finalized and so then everyone who's talking about the budget within the city and April and May would know what number of sworn officers were available and therefore what the investigative staffing should have been, you know, a later date would also work with. Then of course, that'd be after the fiscal cycle is done.
- John Alden: The other thing I would suggest in the same sentence is that we're where it says budget cycle in the middle of the sentence, each two year budget cycle might be best to reconfirm that we're talking about the two year budget as opposed to an annual fiscal year measure. So if those edits meet with the approval of the commission, I think those would be improvements over the existing language. Thank you. I'll mute.
- Henry Gage, III: Thank you, director. Do any commissioners have questions or comments on item four?
- Regina Jackson: I too am glad that you guys wrote it that way.



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- Henry Gage, III: Thank you. Seeing no hands at this time. I'd like to take a moment of personal privilege to propose the following. Director Alden's point with respect to the June one date articulated as well taken. I suggest that the commission take no position on a specific date, but flag the issue and request the city staff identify an appropriate date for this section and that that request be noted in our letter to counsel.
- Henry Gage, III: Do any commissioners wish to move for amendments or edits to this section? Seeing no hands- commissioner Dorado, you're in the que.
- Jose Dorado: Yes, I move that the, that we accept the, the amendment as written, the changing the, the ratio from 100 a one line investigator per 100 to 70, 70 sworn officers in department.
- Regina Jackson: I second.
- Henry Gage, III: moved by commissioner Dorado and seconded by chair Jackman that the amendment be accepted as drafted. I'll call the roll.
- Henry Gage, III: Chair Jackman?
- Regina Jackson: Yes.
- Henry Gage, III: Commissioner Prater?
- Edwin Prather: Yes.
- Henry Gage, III: Commissioner Harris?
- Ginale Harris: Yes.
- Henry Gage, III: Thank you.
- Henry Gage, III: Please stand by the orders respected. Commissioner Dorado?
- Jose Dorado: Hi.
- Henry Gage, III: Thank you. Commissioner Anderson?
- Tara Anderson: Yes.
- Henry Gage, III: Thank you.



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Regina Jackson: Yes.

Henry Gage, III: Thank you. Commissioner Smith.

Thomas Lloyd Smith: Yes.

Henry Gage, III: Thank you. Yea, for myself. [inaudible 03:24:18] With respect to the ratio of investigators to officers. So we put forward and recommended by the commission. I'd like to move that the commission articulate the concerns raised by a Director Alden in our letter. Pardon me, in our letter to council. Is there a second?

Regina Jackson: Second.

Henry Gage, III: Thank you. I moved by myself, seconded by Commissioner Jackson. That'd be concerns articulated by Director Alden with respect to the date articulated in this section as well as the language with respect to the fiscal year and budget cycle we included in our letter to council. Please stand by. And I'll call the roll. Commissioner Jackson?

Regina Jackson: Aye.

Henry Gage, III: Thank you. Commissioner Prather?

Edwin Prather: Yes.

Henry Gage, III: Thank you. Commissioner Harris?

Ginale Harris: Yes.

Henry Gage, III: Thank you. Commissioner Dorado?

Jose Dorado: Aye.

Henry Gage, III: Thank you. Commissioner Anderson?

Tara Anderson: Aye.

Henry Gage, III: Thank you. Commissioner Smith?

Thomas Lloyd Smith: Yes.



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- Henry Gage, III: Thank you. Yes, for myself. Motion carries unanimously. Moving forward, Mr. Reese, would you please put item number six at the top of the screen? Thank you. Commissioner Prather, you're in queue.
- Edwin Prather: Thank you. Thank you. Vice chair. Question for council. So this edit, I have a question about it before we discuss it, discusses the termination of the agency director, but then it says removal the inspector general. Are these words interchangeable? Is one better than the other? Can you weigh in from a labor and employment standpoint on whether one term should be used over the other?
- Ginale Harris: Are you, are you asking about removal versus dismissal?
- Edwin Prather: No. So the language that we have... the language in this is from the city attorney's office and it's, it says the commission may terminate the agency director and then the way we edited this section then it then gives us separate description of the process for the inspector general but uses the word removed. And I noticed that in discussing the chief of police, we also use the word remove. So there's terminate dismissal removal, there's all different kinds of terms of art. And I'm wondering if there's a difference in what term we use here. Cause I'd like to be consistent.
- Ginale Harris: Remove is the broadest term, as compared to dismiss or terminate.
- Edwin Prather: And is it in our best interest to be broad or is it to be narrow? Okay.
- Ginale Harris: It's in your best interest to be broad.
- Edwin Prather: So your recommendation would be to change the word terminate to remove?
- Ginale Harris: Correct.
- Edwin Prather: Okay, thank you. So for the rest of the commission, the edit here, just so that we can save time, it was odd to Vice Chair Gage and I that this would call for a affirmative vote or four members with the approval of the city administrator or five votes without the city administrator. We would like to remove the city administrator from this process altogether and make hiring and firing a five vote majority as it is with the chief. It just, it seems to make sense. It's consistent. I'll change the word terminate to remove, but removing the addition of the city administrator to this process only seems to work in our favor because earlier in this charter we lay out that he or she has no role in oversight or management or anything else. So it just, it's it. This is a common sensical edit.



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- Henry Gage, III: Thank you Commissioner Prather. Commissioner Dorado, you're in queue.
- Jose Dorado: Thank you Vice Chair Gage. I just wanted to agree with that. With that sentiment, I think we need to eliminate any and all references to the city administrator wherever we can so I agree with that.
- Henry Gage, III: Okay. Thank you Commissioner Dorado. I see no further hands in the queue at this time. For efficiency's sake, I will note that and six and seven item eight comprises the end of this section. Item eight has not been edited. Item seven is subject to a minor edit with respect to clarifying that the staff are civil service employees because otherwise most of the sections have not been updated.
- Edwin Prather: Commissioner Gage.
- Henry Gage, III: Commissioner Breaker.
- Edwin Prather: In the interest of time I moved at the second sentence of item six here that we propose in our letter that it read "by an affirmative vote of at least five members, the commission may remove the agency director. The commission may remove the inspector general only after adopting a finding or findings of cause, which may be defined by city ordinance and by an affirmative vote of at least five members."
- Henry Gage, III: Is there a second?
- Regina Jackson: Second.
- Henry Gage, III: A move by Commissioner Prather. Seconded by Commissioner Jackson that stated language be added to the commission's letter with respect to section six. Please stand by and I will call the roll.
- Regina Jackson: Aye.
- Henry Gage, III: Thank you. Mr Braker.
- Edwin Prather: Yes.
- Henry Gage, III: Thank you. Commissioner Harris.
- Ginale Harris: Yes.
- Henry Gage, III: Thank you, Commissioner Dorado.



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- Jose Dorado: Aye.
- Henry Gage, III: Thank you, Commissioner Anderson.
- Tara Anderson: Aye.
- Henry Gage, III: Thank you, Commissioner Smith. Commissioner Smith, please stand by. I'm unmuting you. Commissioner Smith? Commissioner Smith, [inaudible 03:33:38] response at this time. Yes?
- Thomas Lloyd Smith: I can't-
- Regina Jackson: There we go.
- Thomas Lloyd Smith: Yes.
- Henry Gage, III: Thank you. Yes, for myself. Needed to approve the edits stated by Commissioner Prather passed unanimously. Any further comment from commissioners at this time? Seeing no hands in the queue Mr. Reese, would you please move the screen to the beginning of section F, investigations.
- John Alden: Oh, sorry about that. I thought we hadn't gotten to C7 yet and I had a comment about that. If you wouldn't mind. Sorry. E7 if you wouldn't mind backing us up just a little bit. It occurred to me as I was looking at this, this part section seven about which employees are civil service employees. Some would read that as meaning the only staff who could be at will would be the agency director and the inspector general and I think that's the intention. It has occurred to me since then that the commission might want to consider whether or not you wish to weigh in on whether you should have one staffer directly working for the commission that is at at-will usually at will positions are reserved for people who function at a very high level, you know, an executive level or high managerial level. The reason I suggest you think about that is that there are a lot of duties laid out in LL and in this division for the commission, for the inspector general and for the agency director.
- John Alden: I think it might serve the commission well to have someone that you might describe as say an executive secretary to the commission or you know, it would be a first deputy to the commission if you will. That would be helping the commission following up on its many, many tasks including among others, the personnel evaluations of the agency director and the inspector general and the search for chief and other things like that that are highly sensitive discipline committee and the like. If you wanted to have someone like that who was the highest ranking staffer working directly for the commission, then I think you



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might want to consider whether that position is called out here in section E7 otherwise that person would probably be a civil service employee. They would not be serving at will and that that has pros and cons for you.

John Alden: Likewise, you might consider whether either the agency director or the inspector general have, say a deputy that's also at will that reports directly to them. Normally these are things that I think you could take care of in ordinance over time or by working with the civil service commission, but since they're explicitly called out in the charter here, this cements the field, ties our hands one way or the other. So that's just a thought for you. I don't know what the commission's preferences might be, but I thought it'd be remiss if I didn't bring it up now. Thank you.

Henry Gage, III: Thank you director. Commissioner Prather, You're in the queue. Perhaps it doesn't say.

Edwin Prather: Oh, sorry. I was talking and I was on mute. My apologies everyone. Thank you Mr. Alden. That was a great comment. It makes me think back to B1 which gives us the power to organize, reorganize and oversee and frankly we, it's, that's something that we need to do and hopefully we don't need to put that level of detail in the charter because don't know what we would, I don't know that we're ready to do that. And so I'll just kind of leave that there unless somebody has an epiphany on how we can accomplish that reorganizing our positions in a very short time. I do want to go back to quickly item number six, which I just propose a vote on and we voted on to approve language and it's been brought to my attention and a lot a confirmation from counsel that the inspector general position when hired will be a at will position.

Edwin Prather: And that and you know everyone on this call and meetings knows me. I'm one to admit my mistakes when I make them. If that's the case and the inspector general is in fact at will, then we need not adopt findings of cause and so we are creating a situation for ourselves by creating cause where we don't need it. So if that is the case then I would amend, I would, I'm going to, I don't know if I have to make another motion or withdraw my motion or whatnot, but then I would change this section to reflect that we can remove the agency director and/or the inspector general with five affirmative votes. But if I could get a confirmation of that from Ms. Sawhney that would be great.

Nitasha Sawhney: Yeah. I thank you. Yes, I do believe you are adding an additional layer and a higher standard with that, with that language that seems to have been in the draft that you were considering. These are our high level positions as Director Alden just described. And they should have in their contracts, both at will not for cause standards as well as for cause standards and it may be that you want,



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and I haven't reviewed those employment contracts so it's hard for me to speak to those and I don't know the job descriptions of these positions so I can't speak to it with any specificity. But yes, traditionally generally speaking these high level positions would have both not for cause and for cause termination provisions and by putting the for cause termination provisions into the charter, you're binding yourself to a higher standard.

Edwin Prather: Okay. So that's a mistake. So I would move that the motion that was made and voted on be stricken and that the language of the edit that we're making to subsection E6 read by an affirmative vote of at least five members, the commission may remove the agency director or the inspector general. My apologies to everyone for having you vote on this yet again.

Jose Dorado: Second.

Henry Gage, III: Thank you. Commissioner Prather. A move by Commissioner Prather, seconded by Commissioner Dorado. Counsel the correct procedure for taking this motion I believe would be the motion to reconsider and then adopt the language proposed by Commissioner Prather. Is that accurate?

Nitasha Sawhney: Yes, that's correct.

Henry Gage, III: Commissioner, we would therefore reconsider the previously adopted motion and replace languages that are posed by Commissioner Prather. Please standby. [inaudible 03:41:32] call the roll.

Nitasha Sawhney: I think you could run both roll calls concurrently just in the interest of time.

Henry Gage, III: Thank you counsel. In the interest of time we will roll these [inaudible 03:41:58]. Motion to reconsider and amend concurrently? Pardon? Director Alden. You're in the queue. Excuse me, [inaudible 00:18:13].

John Alden: Sorry, that was inadvertent, I'm not sure how my hand got raised. Sorry about that.

Henry Gage, III: Thank you, Director. Mn a motion to reconsider and amend. Commissioner Jackson?

Regina Jackson: Yes.

Henry Gage, III: Thank you. Commissioner Prather.

Edwin Prather: Yes.



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- Henry Gage, III: Thank you. Commissioner Harris.
- Ginale Harris: Yes.
- Henry Gage, III: Thank you. Commissioner Dorado.
- Jose Dorado: Aye.
- Henry Gage, III: Thank you. Commissioner Anderson.
- Tara Anderson: Yes.
- Henry Gage, III: Thank you. Commissioner Smith.
- Thomas Lloyd Smith: Yes.
- Henry Gage, III: Thank you. Yes for myself is seven affirmative, zero negative, zero abstentions, this passes unanimously. Returning to beginning of section [inaudible 03:43:30] my apologies. Would you please return to number seven? The question was raised with respect to the needs for an executive director type position. It appears that for that sort of role to be contemplated, we would need to amend both section seven as well as the initial grant of authority and I believe it was in section B. It is the will of the commission to push for such a position or should we defer it this time? I see no hand at this time. Commissioner Harris, you're in the queue.
- Ginale Harris: Yes, we're on section seven correct?
- Henry Gage, III: Yes.
- Ginale Harris: Okay, so just the baby blue was what you amended, is that correct?
- Henry Gage, III: Commissioner Prather, would you please restate your amendment for Commissioner Harris's clarification?
- Ginale Harris: Please.
- Edwin Prather: I'm sorry. Are we on the language? The change to six? I thought I heard Commissioner Harris mentioned seven.
- Ginale Harris: Yes.
- Henry Gage, III: My apologies. That was language was for commissions number six.



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- Edwin Prather: The change to six. The second sentence, Commissioner Harris will read by an affirmative vote of at least five members, comma, the commission may remove the agency director or the inspector general period.
- Ginale Harris: Should it say and/or?
- Henry Gage, III: Commissioner Prather?
- Edwin Prather: It's stylistic. Are you of the strong opinion that it says and/or?
- Ginale Harris: I just think it makes more sense instead of saying or like we're not choosing one or the other. It's either or.
- Edwin Prather: That that I will, like I said, it's, it's wordsmithing. I will make that edit. I don't necessarily know that it requires a revote Vice Chair Gage, but I'll make the edit in the draft.
- Henry Gage, III: I tend to agree it appears to be stylistic and I'm not going to call the vote at this time. Counsel, if you disagree, please indicate. Seeing no hand, it does not be required that requires a revote for the edit requested. Thank you, Commissioner Harris and Prather.
- Regina Jackson: How many pages... Okay.
- Henry Gage, III: Returning to the beginning of section path investigation? Please note that number one has not been edited. Any commissioners have questions or comments on number F? Section number one at this time? Seeing no hands, [inaudible 03:47:17] number two, please note that number two has been amended for clarification. There are no substantive edits, number two. Any commissioners wish to make comments on number two at this time? Seeing no hands, looking to number three. There's one stylistic edit made to number three, in the third line, delete the word "and" there are no substantive edits made to number three. Any commissioners wish to make comments number three at this time. Seeing no hands. Moving to number four and number five please note there's been no edits made to either four or five make ministers wish to make comments in numbers four or five at this time. Director Alden, you're in the queue.
- John Alden: Thank you. Vice Chair Gage. I just wanted to mention that and all of these sections we just talked about F one through five and including six which I will talk about it a little bit. The form we're looking at make some pretty substantial changes as against the language that's currently in the charter, but I see the ad hoc didn't have any changes to the direction in which council seems to be going



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on this document and I just wanted to say these are all great changes and I appreciate them. Thank you for working on them and for others who might be listening. I know a lot of other people in the city have already done some work on these and I'm pleased with how it turned out at least from my perspective at CPRA and I appreciate the effort. Thank you.

Henry Gage, III: Thank you director. Do any commissioners wish to make contact this time. Seeing no hands as you'll note, number six, there's been a minor stylistic edit. And seeing no hands. Move to section G adjudication. Section G number one there've been no substantive edits to section G number one by the ad hocs. Any commissioners have questions on the section at this time? Seeing none. Please move to number two. As you will note, number two has substantive edits made by the ad hoc. I see director Alden in the queue.

John Alden: Thank you for recognizing right at the beginning of the conversation because the question I have is about the first sentence and number two. It looks to me like something might gotten left out here as compared to the version I think that we saw from council. The current language says if the chief of police disagrees with the agency's findings and or proposed discipline, comma, the chief of police shall prepare, prepare, notify. I'm not sure what that means. That looks like maybe an editing error. The agency director of his or her own findings and or proposed discipline shall be submitted to period. So I think there's some individual or agency that was probably supposed to go before the period. So anyway I noticed that that sentence didn't look like it quite flowed and I'm wondering if there's a fix we need to make there. Thank you. I'll mute.

Henry Gage, III: Thank you Director. Commissioner Prather, you're in the queue.

Edwin Prather: Yeah, thanks mr Alden for that catch. I will go back and oftentimes that's a PDF conversion to word program issue. So there are perhaps just some words missing that we need to plug in and I'll get that after my comments. And so, so this issue is one of the seminal issues of the evening. I think that there's this and also the legal council budget issue, which are the two big issues. So I just want to tee up both sides of this argument for the discussion for the commissioners. So the language that that is deleted from this, as you can read through the strike-through provided the discipline committee, the ability to further investigate matters once presented to the discipline committee for several reasons which were discussed between in the ad hoc. We feel that providing the ad hoc with... Or the discipline committee with the ability to expand the record is not appropriate and should not, they should not be given the power to do so.

Edwin Prather: I think you know, people, reasonable minds are going to differ on this all over the place, but there are, there are certainly reasons on the one hand for



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example, if a discipline committee saw that CPRA had not done its job and you know, failed to do certain interviews or failed to get certain documents or other things, you know, the discipline committee is not going to have the ability to go get that. And so that, that is to the extent that the discipline committee is a fact finder and a seeker of truth, it won't have the ability to do that. The tradeoff is, is much like an appellate court. The record is what the record is and the discipline committee can stand on the fact its decision is based on the record that was presented to them. The other issue is logistically, because this always...

Edwin Prather:

I can't think of a scenario where a discipline committee won't be bumping up against a 3304 deadline in every situation because you're, you're going to be talking about serious cases, you're going to have things presented to you with not a lot of time. And so what you're going to have are discipline committees faced with the pressure of trying to figure out whether it has everything, figure out whether an appropriate investigation is done. And frankly a discipline committee doesn't have, staff, doesn't have investigators. So this complaint committee then conduct a further investigation themselves, I have issue with just the thought of someone coming in later and saying, "Well why didn't you do this? Or why didn't you do that?" And from a legal perspective, not being able to properly defend the decision of a discipline committee. But those are, those are other issues.

Edwin Prather:

So those are the two sides of the coin on this and I know that you know, the discipline committee who is, you know served, who have, you know, carried out. Our one discipline matter is sort of in a position where we can't talk a lot about what happened in discipline committee or anything around it because we're involved in litigation. But just to be able to say that at least personally that it being able to further investigate for me wouldn't have helped us and frankly it would've put us in a worse situation I think is something I can say without going into detail. I definitely invite Commissioner Dorado and, and Chair Jackson to weigh in on that without violating anything that happened in discipline committee. But I also want to ask Vice Chair Gage. I think I've laid out both sides of this, but if there's anything I left out I'd ask you to please tee it up for the rest of the group.

Henry Gage, III:

Thank you Commissioner Prather I think the statements you've made accurately reflects the discussion we had and the conclusion we reached after discussion. I also would appreciate hearing from commissioners who have been our disciplinary committee to see whether or not, the states we reached after debate also affords with their experience. With that, I see no hands in the queue at this time with that, Chair Jackson.



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- Regina Jackson: Yes, that was Chair Jackson. Sorry. So I absolutely agree with this. We are not professional investigators, so dealing with the information that is presented to us and not expanding to further conflict or what have you, creates an onerous challenge. So I think that just keeping our responsibility confined to its current purpose would be most appropriate.
- Henry Gage, III: Thank you chair. Commissioner Harris, you're in the queue.
- Ginale Harris: Thank you vice chair. So this goes back to the training I was speaking on. Yes. You know, we are not professional investigators, however, I feel that we can become subject matter experts in some things and we can become post certified. So I am working with Oakland police department to come up with a post certification for Oakland police commissioners and we've come up with a standard already. So it's kind of in the works. So we're just waiting to hear back from post. But you know, I think this is the importance on why we need to know.. Do the everyday job duties of what these officers do, or at least somewhat surface, at least.
- Ginale Harris: ... at least.
- Henry Gage, III: Thank you, Commissioner Harris. Commissioner Dorado, you're in the queue.
- Jose Dorado: Yes. With all due respect to our chair, I think I'd rather have that ace in my back pocket to be able to do an investigation on an important point, and additionally it provides us with added motivation to make sure things are moving and moving along at an appropriate speed so that we don't run up against the 3304.
- Jose Dorado: Aside from the argument that Commissioner Prather pointed out, and that is, "Why didn't you look at X, Y and Z?" Aside from that, I'll take that risk to be able to have that ability, that card in my back pocket. I think that there will be, especially in the more serious cases, which, of course, the discipline committee would be looking at, there would be, I think, any number of opportunities to look at really important points. Yes, we're not professional investigators, but we certainly can look at important points from our perspective to come to the truth and make our own decisions. Thank you.
- Henry Gage, III: Thank you Commissioner Dorado.
- Henry Gage, III: Seeing no hands at this time, I'd like to take a moment of privilege. This is an area where I am deeply concerned, because I both recognize the desire of core commissioners to expand the record, to augment the record, to seek additional information when felt to be necessary. However, in my experience, police officer misconduct cases are often won and lost on procedural due process



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grounds. And the extent to which the commission opens itself up to such attacks by enabling the chief officers councils to argue that the discipline committee did or did not seek additional evidence in one matter when it did seek such evidence in another is deeply concerning.

Henry Gage, III: Commissioner Harris, you're in the queue.

Ginale Harris: Thank you. I mean, first I want to just commend the discipline committee that we had previously. I think you all were walking into the dark, and I think you giving us your feedback on that, I think that was a very challenging. And being that you all don't have backgrounds in investigations was very impressive. It was very impressive. And you stood by principles and values, and you did what was right and you brought back the information in a way that we could digest it and understand it, and we came to a conclusion together based on the information that you all had. So I think the discipline committee plays a very important role, and I don't think we should take a step back from that. That's just my input.

Henry Gage, III: Thank you, Commissioner Harris. Commissioner Prather, you're in the queue.

Edwin Prather: Forgive me if I'm repeating a point I made earlier. I guess I want to reemphasize it because I don't disagree with the notion that sometimes you're going to have questions that you're like, "Hey, I want to find this in the record and it's not there. I really need to know this," or, "I really want to consult this," or, "I want to direct CPRA to go do that." And what happens in the future when any discipline committee doesn't do that. Then the litigation isn't going to be about the decision you made. It's going to be about how you came to your decision. It's going to be about the decisions you made in either seeking additional evidence or discovery or investigation or that you didn't. It's not just going to be about your findings; it's going to be about how you arrived at your findings.

Edwin Prather: And that is such a dangerous thing, to make a lawsuit about what you did or didn't do in the room can't happen. And that's why I feel so strongly about this. And that's why I wanted to defer and turn this into a discussion, because I know from reviewing other documents that have come out after our discipline committee for being involved in litigation, you can see where this potentially can go. And while I get ... yeah, could someone get trained up? Yeah, probably. Could it happen where you need just one thing before 3304 deadline, so you go get it? Yeah. Okay. You could do that.

Edwin Prather: But to have in every case, every commissioner that comes after us questioned on, "Well, why didn't you do this? You had the power to do that. You didn't do this," it is such a protective element to be able to say, "This is the record that was presented to us, two agencies that their jobs are to investigate. They did



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the interviews contemporaneously with the incident. I'm not a year later trying to re-interview. I'm not trying to do this. I'm not trying to do that. I am basing my findings on the record. It is very appellate courtish to limit ourselves on the record. I get that it doesn't feel right, but it does make our decision that much easier to protect.

Henry Gage, III: I see. Commissioner Harris on the queue. Commissioner Harris?

Ginale Harris: Thank you, Vice Chair. I want to go back to, and I'm not going to speak of detail, but in remembering the Pollock case, I don't think it's been suggested that the discipline committee do any further investigation. I think it's just being said that the discipline committee can direct the CPRA to provide missing information. Just like you did in the Pollock case. You understand what I'm saying? I mean, I don't think people are saying, "Hey, we want you to do the investigation," but I think you can direct the agency to provide missing information. That's what was done in the Pollock case.

Edwin Prather: I think that if I can respond, Commissioner Harris, if you get a record, and it's got a summary or table of contents of what's there and something's not there, I think that asking for the item that's missing is fair game. I don't think that this is what is contemplated by this section. I think what is contemplated by this section is ...

Henry Gage, III: We need to make sure that we can go back and look at the investigation, we can use that informational power to say, "This isn't going to happen again." And to some degree that process has already happened. Commissioner Holden has already started to turn CPRA assignment from a review agency to an investigative agency in direct response to some of the concerns where [inaudible 04:06:32]. I've been speaking for some time, so I believe Director [Alden 04:06:37] is in the queue.

Ginale Harris: Excuse me, Vice Chair.

Henry Gage, III: Sure. Commissioner Harris?

Ginale Harris: Right. I wanted to respond to that. I mean, I hear you but it's easier said than done. You come from a perspective of writing papers, and I come from a perspective where I deal with families who are murdered. So it's different. It's easy to say that these policies and these charters, they protect us, but they don't. And they will never be perfect. And you can get peace in knowing that an agency has done everything and absolutely possible to bring justice to light. Having a piece of paper that says you do not, "Oh, we're going to learn from it," that doesn't sit well with me. And I don't know what the other commissioners,



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how they feel about that, but I have two binders full of obituaries. And they haven't all been killed by police, but it's not an easy task to look a mother in the face or a family in the face and say, "Well, we got to do better next time." It doesn't work like that. Not in the real world.

Ginale Harris: So the perspective I'm coming from is to hold ourselves accountable. And the CPRA should not have more positions than we do. I feel like it's our duty to do these things, and I feel comfortable with the decision that the discipline committee made in regards to the Joshua Pollock case. I was 100% behind it, because it was the right thing to do. It had nothing to do with politics. It was the right thing to do. And I think the public voted for our agent, for us as the police commission, and depended on that. So, I guess I will close with that.

Henry Gage, III: Thank you, Commissioner Harris. Do any commissioners wish to make comments on your items under discussion under Section G? Commissioner Dorado, you're in the queue?

Jose Dorado: Thank you, Vice Chair [Gage 04:09:08]. I can really appreciate Commissioner Prather's comments, particularly since he did much of the heavy lifting in the Pollock case led by our chair. And I can appreciate his advice in terms of protecting our decisions. But I think the other side of the coin is being able to take the risks to come to the truth and see that justice is served. And that means that we're going to be in the line of fire as a result of litigation that's asking the questions as to why didn't we do this? Why did we do that? Then I'm of the mind that that's a risk that's worth taking in enabling us to do the investigation we needed to do to answer the questions that we might come across that really lead to the heart and soul of a decision.

Jose Dorado: So, I appreciate the concern and the perspective. I'm certainly no attorney, but I think that on balance, the risk is that litigation, those questions being asked is on balance worth our having the ability to ask the deeper questions to arrive at a just decision.

Henry Gage, III: Thank you, Commissioner Dorado. Co any commissioners wish to make further comments at this time? I see no hands in the queue. I also recognize that there's a split in opinion among the commission with respect to this item. Do any commissioners wish to move on how to proceed?

Henry Gage, III: Seeing no hands in the queue. Commissioner Harris, you're in the queue.

Ginale Harris: Thank you, Vice Chair. I would ask the ad hoc if they could come up with language that limits the liability for the commission, however does the right thing for the public.



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Henry Gage, III: Thank you, Commissioner Harris. There are further comments from other members of the commission? Seeing no hands. I'll move that the commission accept items one and two as drafted by the ad hoc.

Edwin Prather: I second.

Henry Gage, III: Moved by the vice chair, seconded by Commissioner Prather. Please stand by. I'll call the roll.

Henry Gage, III: (silence)

Henry Gage, III: Thank you. Commissioner Jackson?

Regina Jackson: Aye.

Henry Gage, III: Thank you. Commissioner Prather?

Edwin Prather: Yes.

Henry Gage, III: Thank you. Commissioner Harris?

Ginale Harris: I'm sorry, I did not hear the motion.

Henry Gage, III: The motion was to accept items one and two under G.

Ginale Harris: Okay. No.

Henry Gage, III: Thank you. Commissioner Dorado?

Jose Dorado: No.

Henry Gage, III: Commissioner Anderson?

Tara Anderson: Yes.

Henry Gage, III: Thank you. Commissioner Smith?

Thomas Lloyd Smith: Yes.

Henry Gage, III: Thank you. I kindly request the commissioners mute their microphones if they're not speaking. Thank you.



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- Henry Gage, III: For myself, yeah.
- Henry Gage, III: Motion to accept edits made to section G, numbers one and two, excuse me, the result is four affirmative, two negative, zero abstention. Motion to accept the edits passes.
- Henry Gage, III: Moving to item three. Please note that item three has been amended at the end of the item.
- Edwin Prather: Vice Chair?
- Henry Gage, III: Commissioner Prather.
- Edwin Prather: Yeah, thanks. So this was a edit that was encouraged by Mr. Alden. I will give him credit for it. We don't think it was the intent of the previous edit, but the edit appeared that it was requiring CPRA to complete its investigation within five days. That certainly isn't what we wanted, so we changed this language to notify that the director to notify the chief of police within seven days of its intent as opposed to of the completion of the investigation. And so this is a edit meant to clarify. And I believe, and I'll ask Mr. Alden if this meets with his satisfaction, because if it does, that was our intent of editing here on item three.
- Henry Gage, III: Thank you, Mr. Prather. Director Alden, you're in the queue.
- Thomas Lloyd Smith: I think that does meet my concern. I think that Commissioner Prather phrased it very well. I do think it makes sense to have some expectation that the agency notify the chief of police if they're going to not investigate the kind of case described in this paragraph, and then of course, there's a previous language about bringing that issue to the commission in some cases. And I think that's all a good process. I do think this sentence is a little clearer than the previous one, could have been read to mandate that the agency be completed with its investigation within five days. I'm sure that wasn't what anyone intended, so thank you for the edit. Appreciate it.
- Henry Gage, III: Thank you, Director.
- Edwin Prather: Mr. Gage, with that, just in the interest of time, I'll move that we adopt that and in section three as presently phrased.
- Regina Jackson: Seconded.



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Mr. Henry Gage, III: Moved by Commissioner Prather, seconded by Chair Jackson that the commission adopts section G3 as edited. Please stand by. I'm going to call the roll.

Henry Gage, III: Chair Jackson?

Regina Jackson: Yes.

Henry Gage, III: Thank you. Commissioner Prather?

Edwin Prather: Yes.

Henry Gage, III: Thank you. Commissioner Harris?

Ginale Harris: Abstain.

Henry Gage, III: Thank you. Commissioner Dorado?

Jose Dorado: Aye.

Henry Gage, III: Thank you. Commissioner Anderson?

Tara Anderson: Aye.

Henry Gage, III: Thank you. Commissioner Smith?

Thomas Lloyd Smith: Yes.

Henry Gage, III: Thank you. Vice Chair votes affirmatively. Motion to accept edits for section G3 cast as follows: There are six votes affirmative, zero negative, one abstention. Motion passes. Thank you.

Henry Gage, III: Moving to G4. Please note there has been no subsequent edits to the section by the ad hoc at this time.

Henry Gage, III: Seeing no hand, moving to number five. As previously noted by Commissioner Prather, this section is designed to operate in combinations with one and two to allow for informational review and supervision of the agency. Do any commissioners wish to comment on this number at this time?

Edwin Prather: Yeah, yeah. So, Vice Chair Gage, if I could just further on the language you've drafted here, this great language. Let me just tee up this argument here. So you've got the prior section which says that when CPRA and the chief agree on



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the findings and the proposed discipline on a level one user for a sexual misconduct or a truthful case, that the commission can vote to convene a discipline committee anyway.

Edwin Prather: So what Vice Chair Gage has created is a provision that, yes, in these situations we can convene a discipline committee when voted on by the commission, but that is actually informational only, information for the commission, and not to take some affirmative step towards the officer. We would run into the thought, and I'll let Vice Chair Gage explain a little bit more, but the thought being here when both parties agree, how do we weigh in on the issue, because we're not deciding something that is up for further debate. We are weighing into something where two parties agree. We still have the 3304 and other issues and investigative issues, but the informational piece makes it about our review or supervision overseeing of the agency, and less about the case itself.

Edwin Prather: I would also raise the issue that potentially we may not know about cases like this. As you know, we don't often get the kind of details we wanted, at least in the past, and we might not know enough the Pollock situation without the federal monitor weighing in on the topic. And so that's allowing us to have some investigative ability here. Seems like it makes sense, but not so much as to disturb the process that is the discipline committee only comes in effect when you have disagreement or discord between CPRA and the police department. So I don't know, Vice Chair, did I do an adequate job of explaining your edit here?

Henry Gage, III: Thank you, Commissioner Prather. I'm in agreement with the statements you've made. In essence, the intent of this section is to ensure the commission has the capacity to understand and appropriately evaluate the decisions that are being made by CPRA and by its director. At present, we receive lists of cases on an ongoing basis. It is difficult to conduct meaningful oversight while looking at a matrix. It would be much easier to conduct the same meaningful oversight were we allowed to conduct an informational inquiry into how CPRA closed any number of these investigations that we've been seeing on our spreadsheet.

Henry Gage, III: I think it's important to distinguish the need for a proper supervision of the agency from the disciplinary function of the discipline committee. And it would behoove us as a commission to get into the habit of conducting a review of agency action on a more regular basis. With that said, any commissioners wish to make comment or have questions about this item?

Henry Gage, III: I see no hands in the queue. Seeing nothing in the queue, seeing that the commission accepts the edit and propose the inclusion of new section G5 to account for inclusion.



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Edwin Prather: Second.

Henry Gage, III: Thank you, Commissioner Prather. Please stand by.

Henry Gage, III: Chair Jackson?

Regina Jackson: Yes.

Henry Gage, III: Thank you. Commissioner Prather?

Edwin Prather: Yes.

Henry Gage, III: Thank you. Commissioner Harris?

Ginale Harris: Abstain.

Henry Gage, III: Thank you. Commissioner Dorado?

Jose Dorado: Aye.

Henry Gage, III: Thank you. Commissioner Anderson?

Tara Anderson: Yes.

Henry Gage, III: Thank you. Commissioner Smith?

Thomas Lloyd Smith: Yes.

Henry Gage, III: Thank you. The Vice Chair votes in the affirmative. Motion to accept the edit to section G5 casted as follows: Six votes in the affirmative, zero negative, one abstention. Thank you.

Henry Gage, III: Moving to section H. Please note, [inaudible 04:24:54] brief has not been amended by the ad hoc. Do any commissioners have questions, comments throughout section H?

Henry Gage, III: Seeing none, moving to section I. Please note that section I is the final version of this document.

Henry Gage, III: Commissioner Harris, you're in the queue.



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- Ginale Harris: Thank you, Vice Chair. I have a concern with the legal fees coming out of our budget. I think it's a setup. I think we are being set up by doing that. I mean, no other commission ... Does the City Council do it that way? I feel like they're opening Pandora's box for the police union to figure out that our legal fees come out of our budget, and once it runs out they'll continue to sue us just because they can, which will eventually be our demise. So, I don't think we should go for that. I think the city attorney should have to represent us in that.
- Henry Gage, III: Thank you, Commissioner Harris.
- Regina Jackson: Commissioner Gage, can you talk to us about why you didn't make any proposed changes? I too am very concerned about this particular section.
- Henry Gage, III: Thank you, Chair. I am reviewing the section again as we speak. In my prior review, I noted that the commission attorneys are tasked with responding to appellate action filed following official actions by the commission, which I found to be a useful thing, given that we would want commission attorneys to further promulgate commission decisions. I do not believe that we specifically addressed language with respect to funding core pilot action as opposed to general litigation budget. And so it stands with the question for the vice chair, it's unclear at this time whether this is an oversight on my part or whether I'm now reading something that I did not previously see into this section.
- Henry Gage, III: Commissioner Harris, you're in the queue.
- Ginale Harris: Thank you, Vice Chair. Being that I was involved in budgeting for the past two years, and now we're in COVID-19, we don't have the funding to fund something like this, Henry. And I find it absolutely ridiculous that people think we would have it. They barely give us anything now. We don't have a staff, we're not fully funded, and now they want to take the money that we haven't spent. So I'm just curious, you being a lawyer, knowing how much it costs, knowing that we are not the favorite of the police union, we would not have the funding to do some litigation like this. I mean, if you look at previous history, they're not known for jumping in and out of court or not. It goes on and on and on and on and on. I mean, look at the NSA. So, there's no way we can fund this. So I think that the city attorney should have to pay for it.
- Henry Gage, III: Thank you, Commissioner Harris. Do any commissioners wish to make comment on this item?
- Regina Jackson: I have another question. Since you're not sure if this was an oversight as it relates to your interpretation around appellate, I just wonder if Commissioner Prather can weigh in on his perspective as well.



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Edwin Prather: I can. So, part of my thought process on this section was that, we, and I think I'll just say the community at large, for long time was asking for a breakup or a divorce from the city attorney's office and the police commission. And that's what this appears to provide. And it had been my review that that's okay, that if they don't want to represent us, that we're fine as long as we had ... I don't think anyone on this call or listening or anyone in the public is saying that we can't have our own attorneys defend us as long as we have the right budget to do it.

Edwin Prather: Well, for the first time I'm hearing it, and I think it's a really great point that I had not previously considered from Commissioner Harris and that part of the way we may be susceptible is that even if we had provisions written into this where we had a safety net, we could go back to the city attorney's office to request more funds, we could do this, we could do that, that in a precarious budget situation, that one of the, you talk about sword and shield, right? One of those swords that could be used against us could be someone making us spend through our litigation budget so that we would be in a position where before we got authorization for other funds, that we're having to spend other fees. And so that could be a potential weakness.

Edwin Prather: And so, I do recognize that as a potential issue. And it concerns me. And while I was here listening to you all talk, I made an edit that I thought would be inappropriate one to paragraph two.

Edwin Prather: ... to paragraph two. And so the first sentence of paragraph two would be unchanged. It would say, "Commission Attorney shall represent the city as an organization and shall not commence any claim or other legal proceeding against the city on behalf of the commission." That's fine. I think that that's something normal. But I've deleted the next sentence. Starting "Commissioning attorney shall respond to any petition or application." The next sentence that I have in this paragraph would read "The City Attorney shall act as legal counsel on behalf of the commission and commissioners in all litigation involving it or them in their official capacity in accord with Section 401, subsection six, of this charter in consultation with commission attorneys."

Edwin Prather: Because I think that that's what we want, right? We don't want the city attorney to run off and represent us without keeping us in the loop and informing us of what's going on. Cause I think that that's what happens. And so, if we wrote in some level of consultation with commission attorneys, I think I suddenly become okay with the city attorney's representation and I think it helps protect us. I think section three is fine. That's something that we had asked for in terms of attorney-client confidences and whatnot. But maybe this is ... I thought that our discussion would be about, "Okay, we're going to have commissioned



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attorneys represent us. How do we protect ourselves from a budgetary standpoint?" But after hearing the comments, I don't actually think that that's it. I actually am moved to the other side now, that the City Attorney should represent us in consultation with our own attorneys and that they should not lose that burden, and that's what I'm prepared to suggest going forward.

Regina Jackson: Good. I like that better.

Henry Gage, III: Thank you Commissioner Prather. Thank you Chair. Commissioner Harris, you're in the queue.

Ginale Harris: I agree with Commissioner Prather. I would just say there needs to be some language in there saying "In consultation with commissions attorney, however, commission attorney will lead any ... " what's lawyer talk for lawsuit? What's lawyer talk for lawsuit? Litigation! There you go ... "Will lead litigation." Like, in other words, we're not being second chair, our attorney's going to be first chair. They're just going to be our bankroll

Henry Gage, III: Thank you Commissioner Harris. Commissioner Smith, you're in the queue.

Thomas Lloyd Smith: I would like to make a motion that we adopt the language that Edwin stated in terms of the City Attorney's office handling litigation and consultation with the police commissions attorneys. But I would like to have Commissioner Prather, reread his language so that everybody can hear it.

Edwin Prather: Okay. So a quick edit though that I'm going to suggest based on comments is to say, so the second line of paragraph two, the second and only line of paragraph two would read "The city attorney in consultation with commission attorneys as co-counsel, comma, shall act as legal counsel on behalf of the commission and commissioners in all litigation involving it or them in their official capacity in accord with section-"

Thomas Lloyd Smith: No, I think I actually prefer your first statement. And the reason why is, I'm concerned that co-counsel sets us up for having to fund the leadership. And that is the problem. And it really is that the financial side of this in litigation can be devastating, and it can be enough to put this commission into a really bad place. Co-counsel, well then we need to make sure that we get the budget to actually fund that. And it still puts that burden on us. I do think it should be in consultation, but the thing that you know is the City Attorney's Office is not going to be underfunded when it has to defend a litigation suit. But when you talk about our commission and co-counsel, and what we can afford, well, that could be easily underfunded.



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Thomas Lloyd Smith: And so I think that the threat on the financial side is very real, and I think it's enough to do under with this commission because, depending on the obligation that the City Attorney's Office faces in terms of defending us, that'll be the difference between whether or not we end up in a place where we are so overwhelmed by budgetary stress that all of a sudden now we can't function and carry out the most important functions that we're supposed to be doing. And that really concerns me.

Henry Gage, III: Thank you. Commissioner Smith. Take a moment. Excuse me. Thank you. Take a moment of personal privilege to note that I'm in agreement with Commissioner Prather's earlier suggestion that the City Attorney act in consultation with commission counsel, as opposed to co-counsel because I agree that acting as co-council still implicates the budgetary concerns identified by Commissioner Harris. In addition, the City Attorney, as legal representative for the city would be the appropriate officer to defend the city against this sort of action, and it would also be appropriate to require that officers act in consultation with the department or division of the city that instituted the original action.

Thomas Lloyd Smith: Is that a second?

Henry Gage, III: I will call that second. Thank you, Commissioner Smith. Moved by Commissioner Prather second by the Vice Chair. That section-

Thomas Lloyd Smith: Commissioner Smith. Moved by Commissioner Smith.

Henry Gage, III: Pardon me. Moved by Commissioner Smith. Second by the Vice Chair, but section I to be amended to require that the city attorney act in consultation with commission attorney. Please stand by. I'll call. Chair Jackson?

Regina Jackson: Yes.

Henry Gage, III: Thank you. Commissioner Prather?

Edwin Prather: Yes.

Henry Gage, III: Thank you, thank you. Commissioner Harris?

Ginale Harris: Yes.

Henry Gage, III: Thank you, thank you. Commissioner Dorado?

Jose Dorado: Aye.



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- Henry Gage, III: Thank you. Commissioner Anderson?
- Tara Anderson: Yes.
- Henry Gage, III: Thank you. Commissioner Smith?
- Thomas Lloyd Smith: Yes.
- Henry Gage, III: Thank you. The Vice Chair votes in the affirmative. Motion to edit section I-2 happens with seven votes in the affirmative, but it's unanimous. Moving on, as noted by Commissioner Prather, section I-3, is the last remaining section. Do any commissioners have comments with respect to section I-3 at this time?
- Henry Gage, III: I see no hands in the queue. Commissioners, we have now completed review of the draft document received from the city attorney's office. According to my notes of this meeting, you initially agreed to return to section A number five for review after completing our initial run through, but to do so at this time. Thank you [inaudible 04:40:59]. Commissioners, the proposal was made earlier in the meeting by Commissioner Prather that this section should be split. The first section should be deleted. Excuse me. The first section should be deleted, and that the section should move to section C-10 which, as discussed previously, deals with removal of commissioners by city council. Do the commissioners have comments on this section at this time?
- Edwin Prather: Vice chair, so we already voted to include the language regarding shall not institute an investigation. That's already been included in C-10. So what would be left is the sentence "The city administration shall not exercise any managerial authority over the commissioners or their staff." I think Commissioner Smith had indicated a desire to leave it as is based on trying not to change the document. But I wonder if he's still of that mind since we've made so many changes across this document and whether this is just a quick fix at this point.
- Thomas Lloyd Smith: [crosstalk 04:42:16] Yeah. The other thing is, I did think that it being upfront at the beginning of this thing really gave it prominence. And I recognize what you're saying, it may be a little bit duplicative based on what we said later on. So, it's not something that I'm willing to fight for. But I still thought that being upfront and stating it, even if it may be somewhat duplicative, stating out at the very beginning that the City Administrator, or that managed city administration in general, shouldn't be conducting those investigations of commissioners. I don't know, I think it can't be said too many times and I liked the prominent placement of it.



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Thomas Lloyd Smith: But if it's the will of the majority not to remove it I'm not going to ... because they think it's duplicative, I'm not going to put up a huge fight about it. But once again, I like the placement. I like the fact that it says that they shouldn't be conducting investigations of ... that the administration, shouldn't be conducting investigations of commissioners and so I haven't really changed my mind if that's the question.

Henry Gage, III: Thank you Commissioner Smith. Commissioner Prather, you're in the queue.

Edwin Prather: So, Commissioner Smith, I think the way I come out on it is that since we've already pushed the investigation portion of it to the C-10 where it deals with the public ethics, and it just, that seems like the appropriate place to deal with investigation. Leaving the first sentence I would, to me this is an either or. Either we say the city administration shall not exercise any managerial over authority over commissioners, the agency, the OIG or any of the designated staff. So that we're clear that city administration doesn't deal with any of us. Right? We either are all in on it or let's pull it out. Because to me, it's a half ... there's ambiguity in it that I don't walk right into it. So I would rather take it all out because I think it goes to a ... it makes an issue with something that isn't an issue. But again, I'm also of your mind that now five hours later I'm okay with what the will of the majority is at this point.

Thomas Lloyd Smith: So let's hear what everybody else thinks.

Henry Gage, III: Thank you, Commissioners Prather and Smith. Commissioner Harris, you're in the queue.

Ginale Harris: I think it should stay in. I think that there are two separate issues, as I've stated before, and I think it should stay in. I mean, this is only one part of the wrongs that this administration was taking part in. The City Attorney's office took part in it, and so did the Oakland police department. They also took part in it, so this is just one piece of the puzzle. But it needs to be very clear that they are not to ... especially people volunteer their time to help this city.

Tara Anderson: I agree.

Henry Gage, III: Thank you Commissioner Harris [inaudible 00:13:42].

Ginale Harris: We're all harping on the city administrator, but we ... let's not forget the City Attorney's Office. They were part of it too. And so was Oakland police department, police chief. She was part of it too. Emails, public record. We have it all. So it's not just the city administrator. If this charter could cover all that then I'd say yes, but it probably can't.



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- Henry Gage, III: Thank you Commissioner Harris. Commissioner Dorado, you're in the queue.
- Jose Dorado: Yes. Thank you. I'm of the mind that, and I think Commissioner Smith hit it right on the head, its prominence right at the beginning of the document alludes to its power and even if it's duplicitous, I think it should stay in as is, with the exception of the clarification that Commissioner Prather articulated, but I think the bottom line is it needs, I think it needs to be said even if it said more than once, which I think just adds to its emphasis. I think it should stay in with a clarification. So Commissioner Prather, and make it clear right from the outset what our position is, what the position of the commission is and what the charter says.
- Henry Gage, III: Thank you Commissioner Dorado. Commissioner Anderson, you're in the queue.
- Tara Anderson: I'd like to support the comments that the statement remain as is, as referenced for item five here. I also want to call a question around the use of the term "City administration". That is not exclusive to the city administrator. Correct? That is more broad in scope?
- Henry Gage, III: Yes, that's right. Yes.
- Tara Anderson: Thank you. I think that gets to part of ... well not completely gets to commissioner Harris's point. I just want to emphasize that this is more than just a reference to the city administrator's office.
- Henry Gage, III: Thank you, Commissioner Anderson. As a brief point of privilege, Commissioner Anderson's point with respect to the term "City administration" causes me to wonder whether an investigation by the ethics commission would fall within that definition. I have to pose this question to counsel. Counsel, do you have a position as to whether or not the other commission would fall within that jurisdiction?
- Henry Gage, III: To the chair?
- Regina Jackson: Yes [crosstalk 04:48:30]
- Thomas Lloyd Smith: Just that, I was just going to say just before, I am not the interim counsel, but usually administration doesn't refer to an ethics commission. Usually it refers to the staff, but go ahead. Counsel may have more insight.
- Juanito Rus: Sorry, this is [inaudible 04:48:45] this isn't counsel. Along the lines of what Commissioner Smith just said, I believe that the ethics commission stands



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outside of the administration in the structure of Oakland. I'll leave it to counsel, but that's my understanding.

Henry Gage, III: Thank you Mr Rus. Counsel, do you have a question?

Nitasha Sawhney: I would agree. I don't think, I think that unless this was going to make specific reference to limit something within the ethics commission's scope and role. I don't think this language could be seen to be limiting the ethics commission's work.

Henry Gage, III: Thank you counsel. Commissioner Harris, you're in the queue. Commissioner Harris is no longer in the queue. Thank you. After debate, it appears that the will of the commission may be to keep section A-5 in our recommended draft. Commissioner Prather, you're in the queue.

Edwin Prather: So, if we're going to keep A-5, the first half and the second half of the sentence is absolutely flawed because we need to expand managerial authority. It can't just be over commissioners and staff, because it has to have some relation to others, because by singling out commission or staff, there's a potential that city administrations would say, "Oh well, then we exercise managerial authority over everything else that that isn't commissioners or staff."

Edwin Prather: So that's one. That's a problem. The second, the second half of the sentence, it's vague because it says "Shall not initiate an investigation for the purpose of removing a commissioner." What if the City Administration says, "Well, we're not trying to remove a commissioner. We're only trying to determine whether such and such happened. Or, we're not going to take it to the level of removal." Okay. So then they can go ahead and do a investigation. That's a problem. So to me, this is, and I don't ... it's such a bad sentence that I don't know how to fix it. So I just wanted to put that out there.

Henry Gage, III: Thank you. Commissioner Prather. Commissioner Dorado, you're in the queue.

Jose Dorado: Thank you, Commissioner. I mean, Vice Chair Gage. Commissioner Prather, what would you suggest to cover all the bases in terms of the first part of the sentence? And then the second part of the sentence, would it not be, would it not take care of what we need to say by simply saying "The State Administration shall not initiate an investigation for any purpose? Shall not initiate investigation of a commissioner for any purpose" and just cover all bases that way?

Edwin Prather: So to answer your questions backwards, Commissioner Dorado, I think that the part about investigation is a problem for the reasons we articulated in section C-10 because there are situations where a commissioner may be implicated in a



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investigation. So we can't, I don't think we can say "Never". Right? So unless we're repeating the same sentence that we put in to C-10, I don't know. Again, I don't know how to fix this. And in the beginning part of the sentence ... so it's like "Exercise, managerial authority." What if they say "We're not managing"? Or "We're going to tell your ..." or it says "Designated staff"? What does that mean, "Designated staff"? Who's designated? There's so much vagueness to it that I would want to scrap this and start over completely. It's such a poor sentence.

Thomas Lloyd Smith: But it works in combination with the other sentence that is in the other section. It doesn't work alone.

Edwin Prather: Yeah, but you got to because what you're talking about Thomas, right, is like you're putting in the beginning because it's so powerful. Right? But to me, it's like when you read into it, it actually lacks because it's so vague. It's ...

Thomas Lloyd Smith: It's just not standing alone though. I mean, because of the other sentence that you added that you're, that you're referencing, it's not the only protection that's provided. It's, it is and so I'm not ... It is their sentence. They created it and to leave it there allows them to retain the purpose that they put it in there and the work that it does. But what we've done is provided another sentence that's even broader than that. That sort of does more than just reaffirms. It fortifies and broadens the protection. So I mean it's not really working on its own, but it's making a statement there. I mean, it does make a statement.

Edwin Prather: I get that. But at the same time to me ... so at first I started out with looking at "Managerial authority". I'm like, "What is that? What even is that? Should it, should that be changed to 'Management'? Should it be changed to 'Oversee'? Should it change?" And really the answer is, why are we addressing the City Attorney or the City Administration and their power over us at all? To me it's like we're raising a flag to something that isn't an issue.

Thomas Lloyd Smith: Well, no. I think it's an acknowledgement that there was wrong that was done by pursuing an investigation against a commissioner when there were, when it wasn't just caused.

Edwin Prather: But don't we address that though in C-10? Like, if we want to, why don't we delete this and then go back to C-10 and put another line in C-10 that's more of a rebuke?

Thomas Lloyd Smith: I just don't see what harm it does. I think they chose that statement for a reason and I believe it's because they're acknowledging that it was wrongful. That there was an investigation done of a commissioner that didn't deserve to be, that



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there wasn't just cause therefore. And I mean I think to leave it there in combination with the other, I don't see it as doing any harm.

Edwin Prather: So you would leave it as is, just literally as it is written.

Thomas Lloyd Smith: Well, I'm saying if you think you can make it stronger, then go to it. But I'm saying I'm okay with leaving it because I know we have a stronger sentence in the background that's providing even broader protection. And so by striking it down, you don't make the document any stronger.

Edwin Prather: To me, it doesn't read as a 'whereas'. It's not a recital. Right? And that's the way I feel like you're reading it. I feel like you should put 'Whereas' at the front of it and you're like "Okay, well we're going to define this later". But that's not what's happening. Right? It is not a recital. It's in section A and-

Thomas Lloyd Smith: Oh, and I completely understand where you're coming from. You're coming from a place of efficiency. But what I'm saying is that this particular statement, even though it's narrower than the one we constructed in the background, it actually speaks to something that's historically relevant during the commission's journey. Right? And it's a reminder that that kind of behavior isn't to be tolerated. And so I actually think it's not just about the work that it's doing. And I do think we've got the broader stronger statement in the background. I think it's also a historical reminder of the wrong that's been done and that that type of action is not tolerable. And in particular, if something happens that's covered under that statement, I would expect the penalties to be more severe.

Edwin Prather: Okay. So why don't we do this then, if that's the ... if the purpose is to reflect the historical wrong. Okay? Then the sentence should read, "The City Administration under no circumstances shall initiate an investigation for the purpose of removing a commissioner." Cause that's a narrative. It's not ... I would take out the managerial authority and all that other crap and I would just make it a rebuke. I'd just put that in. If that's your purpose, then that's where my edit goes to.

Thomas Lloyd Smith: Yeah. There's no problem with that. Sounds good to me.

Edwin Prather: Just don't just take it because, because you want to stop debating with me. I'll debate you for-

Thomas Lloyd Smith: No, no, no, no. Because I think, and I have to tell you, that I think to remove that would be as if they were trying to do right by something they're acknowledging was a wrong that was done to us, and that we took it away. I mean it just, I can't even imagine doing that. Right? It's a concession on their part to say, "Look, we



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saw what happened here and it wasn't right, and so we're putting something in here specifically to make sure that those types of things don't happen again." And particularly I would think if if something happens that's covered under that specific provision, I would expect the penalties to be more severe.

- Henry Gage, III: Thank you, Commissioners Smith and Prather. Commissioner Harris, you're in the queue.
- Ginale Harris: Yes. Thank you. I agree with both what Commissioner Prather and Commissioner Smith are saying. I think it's absolutely ... and Jackson. I think it's important that they understand that this is wrong. It's wrong, and it hurts people. It's not even about the investigation. It's about all of the wickedness that was done during and all of the stuff that came with it. And the intent was probably to help destroy this commission. And it didn't work. So I, with that in mind, I would ask that you put those words into this, put the language in the charter because it is not okay. And all of them left this city untouched. Untouched-
- Henry Gage, III: Please excuse my interruption and thank you, Commissioner Harris. Commissioner Dorado, you're in the queue.
- Jose Dorado: Yes. If words like managerial attached to authority and designated staff gives any wiggle room then they should just be eliminated. And just say it straight up. The city administration shall not exercise any authority over commissioners or their staff. And under no circumstances shall initiate an investigation for the purpose of removing a commissioner. Just take those words out and add that phrase that the Commissioner Prather suggested and call it good. And again, I liked the idea of it being right up front, right in the beginning.
- Henry Gage, III: Thank you, Commissioner Dorato. Commissioner Smith, you're in the queue.
- Thomas Lloyd Smith: Yeah. So this will be the second time that I've done this, but I'm going to make a motion that we accept the original language, sorry Edwin. Under no circumstances shall that be done. If you want to recite the full language Edwin, I'll invite you to do that.
- Edwin Prather: Fine. So here's what I wrote in the draft, "The City Administration shall not, comma, under any circumstances, comma, investigate a commissioner or commissioners for the purpose of removal."
- Thomas Lloyd Smith: Yes. That's my motion and your language. Thank you very much.
- Edwin Prather: You're welcome.



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- Regina Jackson: Second.
- Henry Gage, III: It's been moved by Commissioner Smith and seconded by Chair Jackson for the votes. Thank you. Commissioner Harris in the queue.
- Ginale Harris: Yes. Before we take a vote on this, I'd like to just bring something to your attention. So I appreciate the language and I'm agreeance of it. However, I feel like we put "for the purpose of removing", because the purpose of removing, right? They can use another reason to investigate. That's like a loophole.
- Edwin Prather: Well, yeah. Commissioner Harris, I had thought because I'm the one who brought up that they would have lots of wiggle room under this. The purpose of this statement is not actually ... it doesn't have teeth. The teeth of this comes later in section C-10. The purpose of this sentence is to say City Administration shall not under any circumstances investigate, and it's under section A, right in the beginning. It's meant to send a message, but it's not actually the thing you rely on in terms of investigatory power. That's what comes in C-10. So the whole thing that Tom, that Commissioner Smith and I were debating about is you put something that is like a purpose statement early and then you back it up with something that has real bite to it later on. So that's what this is.
- Ginale Harris: Okay.
- Thomas Lloyd Smith: That's right. That's right. Yep.
- Ginale Harris: Got it. Got it, got it. Makes sense. Thank you.
- Edwin Prather: Of course.
- Henry Gage, III: Thank you, Commissioner Harris and Commissioner Smith. We have a motion on the floor and for clarity's sake, would you please restate the content of the motion?
- Thomas Lloyd Smith: Edwin, can you restate the "Under no circumstances" phrase?
- Edwin Prather: Commissioner Smith moves to [crosstalk 05:03:26] reflect this language, "The City Administration shall not under any circumstances investigate a commissioner or commissioners for the purpose of removal." So moved.
- Regina Jackson: And seconded.
- Henry Gage, III: Thank you. So properly moved and seconded. Please stand by. We'll call. Chair Jackson?



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- Regina Jackson: Yes.
- Henry Gage, III: Thank you. Commissioner Prather?
- Edwin Prather: Yes.
- Henry Gage, III: Thank you. Commissioner Harris?
- Ginale Harris: Yes.
- Henry Gage, III: Thank you. Commissioner Dorado?
- Jose Dorado: Aye.
- Henry Gage, III: Thank you. Commissioner Anderson?
- Tara Anderson: Yes.
- Henry Gage, III: Thank you. Commissioner Smith?
- Thomas Lloyd Smith: Yes.
- Henry Gage, III: Thank you. The Vice Chair votes in the affirmative. Motion carries. Seven votes. Affirmative. Zero negative. Zero abstaining. Thank you. Commissioners, this completes our initial review of this document. I believe the remaining task we have is to briefly identify the items that we will highlight in our letter to counsel.
- Henry Gage, III: Moving quickly through the document under section A, it appears you'll highlight section A-5 with respect to the need for further clarification about language. And please, Commissioner Prather, you've been taking notes, please feel free to stop and correct me if necessary. Under section B, Powers and Duties, I note that Commissioner Prather will be drafting editing section B-8. Is that correct?
- Edwin Prather: Yes. So I have for section B, I have a comment as to there's the three points to subsections four and five, and then we have the Chief's attendance in eight. Then in 10 I have the language for the chief.

PART 9 OF 10 ENDS [05:06:04]

- Edwin Prather: I have the language for the chief selection process and then at 11:00 we have the chair continuing to go to EFR. That's all. That's what I have for B. Vice Chair,



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you want me to just go through it like that quickly? I can. I have it all in front of me.

Henry Gage, III: Thank you. That'd be appreciated. I would note that under B11 I believe that language should not say executive force review board, but any enforce review board, does that match your note?

Edwin Prather: Oh, okay. So I'm sorry it should say what?

Henry Gage, III: As non-voting members of any Oakland police force review board, the intent is to encompass both force review board and executive force review boards, which are different.

Edwin Prather: Got it. So department force review board. Okay, got it.

Henry Gage, III: Thank you.

Edwin Prather: Thank you. Okay, so I've got a change in C1 to address. Oh God. Did we vote on this? The deletion of the phrase regarding ID cards and badges. I have that on my list.

Regina Jackson: I don't think we did.

Henry Gage, III: Do any commissioners feel a need to express opinion on ID cards and badges.

Edwin Prather: So I do. I feel that this is a city attorney edit meant to attack a particular commissioner. There's no way ... This is a clear thing that I'd like to push back on and it is [inaudible 05:07:47]. Well, anyway, I can make a pretty tangible argument against this, but does anybody feel differently like this, edit like that the way it reads currently that regarding badges or IDs should be prohibited?

Regina Jackson: No.

Henry Gage, III: Commissioner Harris you're in the queue.

Ginale Harris: I think it's targeted for particular commissioner too. And my thing is, now I'm going to be nice, is that we have the responsibility to oversee a department head that is one of the most important positions in this city. And police officers carry them, right? They carry them and other commissioners carry them too. The idea came from San Francisco where we mimicked what San Francisco had. That's all. But unfortunately, what comes with the badges comes responsibility and they know that and they understand that, but they're trying to minimize what we do. And so I would push back too.



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- Edwin Prather: Vice chair. Do we need a vote or am I my good just to include that in a letter?
- Henry Gage, III: I would like to ask if any commissioners feel strongly that this item should not be included. If you do feel strongly, please raise your hand so you can be heard and seeing no hands with time, I do believe this matter can be handled by consensus.
- Edwin Prather: Okay, so C1 and C3 we're indicating that we're taking no position regarding qualifications or disqualifying factors regarding selection panel in C, skip ahead to C. Sorry, I'm going so fast. I'm just doing it in the interest of time. In C9 our position regarding training vis-a-vis the city attorney's office. In C10 we're making a reference to the investigation of a commissioner and the language change. No edits or comments in section D, in section E, in item E4.
- Edwin Prather: We have the change from a 100 officers to 70 officers. We also have the mention of a two year budget cycle and the desire to push for April 1st date as opposed to a June 1st date. In E6 changing the vote to five members for either the agency director and or the inspector general. Going nothing in F. I have in G2 we are addressing the removal of the discipline committee's ability to investigate. I also need to fix the part that Mr. Alden identified, that first sentence there seems to be something missing and I'll go back and fill that in.
- Edwin Prather: In G3 we're changing that five business day completion reference to the agency notifying the chief of police within seven days. Let's see here. And then in G5 the ability to investigate for informational purposes only in a situation where the chief and the agency agree. Then in I2 we're changing the commission attorney shall represent the city in consultation or sorry, the city attorney and consultation with commission attorney shall act as legal council. So that's what I've got.
- Henry Gage, III: Thank you Commissioner Prather. And your note taking is much appreciated. Commissioners, we have completed a review of the draft document forward by city attorney. We have voted and amended a number of sections and as discussed by commissioner Prather, we have discussed the contents of a proposed letter to send to council. Do any commissioners have further comments to make at this time? If not, I'd like to propose a motion.
- Regina Jackson: I have one.
- Henry Gage, III: [inaudible 05:12:58].
- Regina Jackson: I just want to be incredibly appreciative for both your and Commissioner Prather's leadership in grinding to get us to a place where we could walk



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through each segment and feel like we're being represented as best as possible. So thank you to both of you.

Henry Gage, III: At the moment of personal privilege I have to thank Commissioner Prather for doing much of the heavy lifting with respect to the initial drafts of this talking.

Regina Jackson: That too. Commissioner Prather.

Henry Gage, III: As we have now completed our review and our discussion of respective communications to council, I would move that the commission forward the red line document as long with a cover letter outlining the substantive changes proposed by the commission to city council for their review and debate in connection with the proposed placement of this measure on a future pilot.

Edwin Prather: Second.

Henry Gage, III: Thank you. Moved by the vice chair. Seconded by Commissioner Prather. Please stand by. I'll call the roll. Commissioner Harris, you're in the queue.

Ginale Harris: I'm sorry, vice chair. Your voice sounds a little muffled where I'm at, so I couldn't quite hear the motion.

Henry Gage, III: I apologize. The motion was to forward the red line completed the [inaudible 05:14:47] together with a cover letter outlining the substantive of changes proposed by the commission to city council for review and debate. I can't remember the exact language I used in connection with the upcoming discussion of whether to put this on a future ballot. Excuse me.

Ginale Harris: Got it. Thank you.

Henry Gage, III: Thank you, Commissioner Harris. Commissioner Prather, you're in the queue.

Edwin Prather: Thank you Vice Chair. I know we were contemplating taking a public comment. Should we take that before this last or what appears to be our last motion or are you contemplate taking it after? I just wanted a reminder, because I know we've got some people who've been hanging on to the very end with us here after five hours. So I'm sure they are waiting for their chance to say something.

Henry Gage, III: Thank you Commissioner Prather. I have neglected to receive further public comment. Mr. Rousse, would you please open the floor up for the public comments?



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- Juanito Rus: I am happy to do that through the chair, just as a question for council, I'm not sure was this item agenda as receiving public comment other than the initial?
- Regina Jackson: Yes. As stated at the beginning, we do it at the beginning and at the end.
- Juanito Rus: Okay. At this time I will take comments from members of the public. If you would like to speak on this item, please raise your hand in the queue and you will be called in the order you appear. One second. Let me share the time clock. Very well. The first speaker that I have is Lorelei Bosserman. Hello Ms. Bosserman, are you there?
- Lorelei Bosserman: Yes, I am here. Can you hear me?
- Juanito Rus: We can hear you.
- Lorelei Bosserman: Okay, great.
- Juanito Rus: [crosstalk 05:16:49] when you begin to speak.
- Lorelei Bosserman: Hi, this is Lorelei Bosserman. I hate to throw a wrench in things when you've done so much hard work and it's so late, but I was concerned about one thing and that was the way you wrote the paragraph saying that the commission could take a look at things even if the agency and OPD agreed to say that, that is just for informational purposes alarms me because under that rule you would not have been able to discipline the officers who shot Joshua Pollack unless the monitor intervened as he did. So at 1:30 at night I'm hoping you'll consider that, anyway. Thanks.
- Juanito Rus: Thank you Ms. Bosserman. I'll now mute you. And the next speaker that I have is Rashidah Grinage. Ms Grinage, I've unmuted you.
- Rashidah Grinage: Thank you.
- Juanito Rus: Can you hear me?
- Rashidah Grinage: Yes. I also want to applaud the commission for incredibly, intense, hard, long work and so anything I say after that should not diminish my appreciation for all that you've done and all that you have put into coming to grips with this ballot measure. Just a few points. I think the coalition is going to agree with almost everything that you did tonight. One thing that you did not address is A4, which is a required audit every two years for a performance evaluation.



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- Rashidah Grinage: We think that, that's important to keep you guys on track, to make sure you have a strategic plan. It doesn't have to be done by the city auditor. It could be done by a third party that is familiar with civilian oversight. Is just a way for you guys to measure your progress and make sure that you're following your own priorities. So, that's A4. You missed on B4 and five the fact that now the city council has to approve by ordinance something that you want to change, an OPD policy that's new, different and completely wrong.
- Rashidah Grinage: There's no reason for the city council to have to approve of something that you undertake before you undertake it. I'm sorry that you missed that and I guess it's too late for you to go back and put it in if you agree with me. And then finally on the adjudication, I strongly disagree with what you decided for the reasons that Lorelei stated. Going back to examine what went wrong and not being able to do anything about it to correct it is absurd and you're giving away your power. So we don't accept that. We're going to fight that, but pretty much everything else we agree with. Thank you.
- Juanito Rus: Thank you Ms. Grenache and your time is up. I will mute you, and next in the queue we have Michael Tigges. Mr. Tigges, can you hear me?
- Michael Tigges: I can. [crosstalk 05:20:16].
- Juanito Rus: [crosstalk 05:20:16].
- Michael Tigges: Great, thank you. I want to repeat what Lorelei and Rashida had said before that I sat here, fortunately my wife brought me dinner tonight as I listened and I agree with everything. One of the notes that I wrote is that the charter amendment and the charter itself assumes that the monitor is no longer there and so this becomes a conundrum in some respects, and I think it really behooves the commission and in your thinking going forward you won't have the monitor to fall back on as in the Pollock case. That the commission is going to be required to have oversight, really close oversight of the agency so that it doesn't get captured again like it was. And the reason there was an agreement between the chief and the agency at that point was because it was a captured agency when this all happened.
- Michael Tigges: And so going forward, the commission is going to have a huge responsibility to provide close oversight to the agency to make sure that they don't get captured by the administration. And finally, I was reviewing the staff report in advance of tomorrow's meeting before the public safety committee and they intend to take anything of your power away. I don't know if you had a chance to read it but it is very distressing reading. Hopefully the council will not agree to. Thank you.



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- Juanito Rus: Thank you Mr. Tigges. At this time I see no further hands raised in the queue, so I'll pass the conversation back to you Madam Chair.
- Regina Jackson: Thank you very much. Commissioner Gage, were we about to do another motion or were we about to adjourn?
- Henry Gage, III: I believe we're about to do another motion.
- Regina Jackson: Okay. You take [crosstalk 05:22:44].
- Henry Gage, III: Thank you Chair. Commissioners having heard public comment do the commissioners wish to make further comment on motion at the time? I see Commissioner Prather on too.
- Edwin Prather: Thank you vice chair. I only wanted to point out to Ms. Grenache's comment that we missed the language in sections. I forget what subsection is, but four and five in regards to creating a new hoop to jump through for the city council to approve ... We actually did address and talk about that and that's one of the points that I've written down here. It's one of the three points that we mentioned for that particular section, changing the vote and also making sure that they understand that we wish to create no additional obligation from the city to set the city council goes through. So that is being addressed in our letter.
- Henry Gage, III: Thank you Commissioner Prather. As a point of personal privilege, I'd like to note that the preference to B4 and B5 for items that fall within the commissioner's core jurisdiction, there is no action required of city council for the commission to propose changes or modify department for proposed changes. However, the language starting with upon the commission's recommendations specifically calls out if the commission wishes to propose changes or modification that governs subject matters outside of the commissioner's core jurisdiction, that would trigger kind of co-action and they must act by ordinance. I have a slight concern with respect to the word ordinance, however that I did not catch it earlier. And I'm curious if either council or fellow commissioners can help me understand the effect of the word ordinance as opposed to resolution with respect to B4 and B5.
- Thomas Lloyd Smith: Through the chair.
- Regina Jackson: Yes, Mr-
- Juanito Rus: The difference mostly is a process issue in terms of the council's action. A passage of an ordinance requires multiple readings and so it's just a much lengthier process than resolution.



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- Thomas Lloyd Smith: Yeah. I mean, so to be precise, the passage of an ordinance requires two readings and it requires noticing on the front end, on the back end and it doesn't take effect until 30 days after the second reading and then the ordinance is equivalent to a law of the city. It's a higher form of authority than just a resolution.
- Henry Gage, III: Thank you Commission Smith and Mr. Rouse for that clarification. Given the requirements of passing an ordinance and given that this section as written is intended to provide a quick check when the commission is getting off of subject matter jurisdiction, I recommend we suggest in our letter to counsel in addition to the points made by Commissioner Prather that they consider changing ordinance to resolution to allow for a faster pre-approval when the commission wishes to step outside of its core jurisdiction. And to that effect I would like to move that change be included on our cover letter. Is there a second?
- Regina Jackson: Sure. I second.
- Henry Gage, III: Thank you. Moved by vice chair, seconded by the chair. Please stand by and I'll call the roll.
- Juanito Rus: Through the chair-
- Henry Gage, III: [inaudible 05:26:49].
- Juanito Rus: I believe that there was a motion already called with no vote.
- Regina Jackson: When?
- Juanito Rus: There's a motion on the table.
- Henry Gage, III: [crosstalk 05:27:01]. In which case let me withdraw the motion with respect to the approval and forwarding of the entire document as well a cover letter. We state that having a strong prior motion I'd like to suggest, pardon me. I'd like to petition to amend the cover letter to address the question of whether if the current language in B4 and B5 is to remain that sections be amended to note that the council should act by resolution rather than ordinance in addition to the point previously noted by Commissioner Prather.
- Edwin Prather: Mr Rouse, can you put that section back up on the screen. The section Vice Chair Gauge is talking about.
- Juanito Rus: Which section is that?



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- Edwin Prather: B4.
- Juanito Rus: I have it here, let me ... Yes
- Henry Gage, III: Having withdrawn prior motion and we've stated the motion to amend this section, is there a second?
- Regina Jackson: Yes. I second.
- Henry Gage, III: Thank you. Christopher Smith, you're in the queue. Commissioner Smith, you're in the queue.
- Thomas Lloyd Smith: Yeah. Okay. Thanks Vice Chair, Gage. So you're speaking of, is it through that sentence where it says upon the commission's recommendation and then it goes down by ordinance passed by no fewer than six votes. That's the sentence you're talking about, right? So just so you know, that is the sentence that I mentioned earlier when I read the Public Safety Commission that they had struck out that whole sentence we had that conversation about, so it may not end up mattering in the end, but I just figured I probably should mention it because that is the sentence that I saw in the Public Safety Committee posting for the 27th that they had struck out.
- Henry Gage, III: Thank you Commissioner Smith. I will note that, having briefly reviewed some of the amendments made to public safety into the document forwarded from the city administrator, there are a number of sections that we've been discussing that have been struck. Notwithstanding, do you think it's important to take any position with respect to that item given that it would substantially interfere with our workflow, should that language move forward as stated? Do you have further comment Commissioner Smith?
- Thomas Lloyd Smith: I'm reading through it now just to ... Yeah. No, not really except for the fact that an ordinance is different than a resolution, right? So I'm not certain. I don't know the history of why they put the word ordinance, but I mean, if they're thinking of passing an ordinance, that's something that's permanent, that's the law of the city that's different. It's a more enduring type of action generally than a resolution. So I mean the two are different things and there may be certain reasons why they selected an ordinance over a resolution there because they're thinking of certain types of actions. But I don't know the backstory for it, and ultimately they struck it out.
- Henry Gage, III: Thank you Commissioner Smith. After further reflection and given due to the fact that the attorney's office originally placed ordinance in for a reason, I'd like



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to withdraw my motion to amend that section and move forward with the acceptance of the document.

Regina Jackson: And I withdraw my second.

Henry Gage, III: Thank you Chair. That said, I move that this commission forward the red line document we have worked on this evening together with an explanatory cover letter outlining the substantive changes and positions behind those changes by the commission to city council for their review. Is there a second?

Thomas Lloyd Smith: Second.

Henry Gage, III: Moved by Vice Chair. Seconded by Commissioner Smith. Please stand by and I'll call the roll. Chair [inaudible 05:32:11].

Regina Jackson: Yes.

Henry Gage, III: Thank you. Commissioner Smith.

Thomas Lloyd Smith: Yes.

Henry Gage, III: Thank you. Commissioner Prather.

Edwin Prather: Yes.

Henry Gage, III: Thank you. Commissioner Harris.

Ginale Harris: Yes.

Henry Gage, III: Thank you. Commissioner Dorado.

Jose Dorado: Hi.

Henry Gage, III: Thank you. Commissioner Anderson.

Tara Anderson: Yes.

Henry Gage, III: Thank you. Vice Chair, [inaudible 05:32:44]. Motion passes. Seven votes affirmative, zero negative. There upstanding. Commissioners, thank you for your work this evening. This concludes this section of our agenda. Chair Jackson, I pass this meeting back to you.

Jose Dorado: Thanks Commissioner Gauge. Great job.



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Regina Jackson: Thank you very much. As I said, this was a tremendous meeting. I appreciate the participation, support, outstanding questions and challenges from everyone. It is my pleasure to accept a motion to adjourn this meeting.

Henry Gage, III: Chair Jackson.

Regina Jackson: Commissioner Gage.

Henry Gage, III: Thank you Chair, I move adjournment. [crosstalk 05:33:30].

Regina Jackson: Oh, great. [inaudible 05:33:32] moved and seconded. Are we all in favor? Could we just say I?

Commissioners: I.

Regina Jackson: Great.

Henry Gage, III: [inaudible 05:33:43].

Ginale Harris: Thank you.

Regina Jackson: Thank you very much.

Edwin Prather: Thanks everyone.

Thomas Lloyd Smith: Thanks everybody.

Regina Jackson: [inaudible 05:33:51] be safe. Good night.

Ginale Harris: Wait one more thing.

Regina Jackson: What?

Ginale Harris: Remind us of the meeting time tomorrow for the public safety.

Regina Jackson: Oh, isn't it 1:30 tomorrow?

Ginale Harris: Do we have links to that or are we guests?

Regina Jackson: Well, I remember reading that it was at 1:30 but I don't have more information right in front of me because my screen is not in my commission email, but the



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public safety committee, we can make sure that it's on our Twitter page first thing in the morning, but I'm almost positive it's 1:30 in the afternoon.

Ginale Harris: Okay. John, Mr. Alden, can you ask one of your staff to please send out information to the commissioners to log in quickly or direction or how to get on? I had trouble last time.

Juanito Rus: Good evening chair and commissioners. I'm going to share the agenda for it right now on the screen.

Ginale Harris: Okay. And how do we [inaudible 05:34:58]?

John Alden: Commissioner Harris, I don't have any information for you about that other than what's on the agenda that Mr. Rouse is getting to you right now. We haven't been given any special or different login information than the public has been given.

Ginale Harris: Okay.

Regina Jackson: Can we receive the login information? We normally get a link for ourselves personally. I mean, I realized we're just going to be members of the public, but I don't see a link to do that on here when [inaudible 05:35:35].

Juanito Rus: That I believe I have sent to you already when I sent you the public safety E agenda, and so-

Regina Jackson: Oh, okay.

Juanito Rus: ... you'll follow through there, you'll find links to get into the meeting.

Regina Jackson: So it should be in our commission email already.

Juanito Rus: That's right.

Regina Jackson: Okay. Thank you very much.

Juanito Rus: You're welcome.

Regina Jackson: Okay, so it is now 10:56. Let's everybody be safe out there.

Tara Anderson: Thank you.

Regina Jackson: Good night.



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Henry Gage, III: Bye everybody.

Juanito Rus: Good night.

Ginale Harris: Okay.

Thomas Lloyd Smith: Good night everybody.

Edwin Prather: At least we don't have to drive home.

Henry Gage, III: True. So true.

Edwin Prather: Good night.

Henry Gage, III: Night.

From: Allene
Sent: Friday, April 24, 2020 10:42 PM
To: Rus, Juanito
Subject: Police Commission e-comment

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Re: agenda item#4

It is essential that the Commission take **action** on the proposed Measure LL amendments ASAP to allow time for the City Council members and OPD to discuss and finalize the proposal and move it forward in time to appear on the November 3rd ballot.

Allene Warren
Block By Block Organizing Network

"Make a Difference."

From: Angie Tam
Sent: Monday, April 27, 2020 1:45 PM
To: Rus, Juanito
Subject: Public comment: April 27th, Special Police Commission meeting

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Police Commissioners, and city staff, Juanito Rus

Good afternoon.

My name is Angie Tam, a 30 years resident of city of Oakland. This is my comment for tonight: Monday, April 27, 5:00 pm Special Police Commission meeting.

1. The City Administration, including the City Attorney, **shall not exercise any managerial authority** over the Commission, the Agency, or the Office of Inspector General or their staff
2. The City shall allocate sufficient budget for a full time staff person, to provide administrative support to the Commission
3. The Commission shall be able to hire its own attorney(s), and **have a budget to pay him/her including any/all litigation expenses.**

Sincerely
Angie Tam

From: Onofre Antonio Abarca
Sent: Monday, April 27, 2020 4:05 PM
To: Rus, Juanito
Subject: Special Police Commission mtg to consider LL re-write

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

I, Onofre Antonio Abarca, [REDACTED], would like the Police Commission to adopt /recommend the following points to Make the Police Commission stronger:

(most important highlighted)

1. Reduce the number of Commissioners that the Mayor can appoint (currently three)
2. The City Administration, including the City Attorney, **shall not exercise any managerial authority** over the Commission, the Agency, or the Office of Inspector General or their staff
3. Require a **majority vote rather than six votes** to propose and approve or reject changes to OPD policies,
4. The City shall allocate sufficient budget for a **full time staff person, to provide administrative support to the Commission**
5. The Chief of Police shall be responsible for providing access to Department files to the Agency and the Office of Inspector General
6. **The Commission shall be able to hire its own attorney(s), and have a budget to pay him/her including any/all litigation expenses.**

Thank you
Sent from my iPhone

From: Bruce Schmiechen
Sent: Monday, April 27, 2020 2:26 PM
To: Rus, Juanito
Subject: Police Commission comment Agenda Item #4

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Commissioners,

I am Bruce Schmiechen, a member of Faith In Action East Bay and an FIAEB organizational representative on the Coalition for Police Accountability Steering Committee. Faith In Action is an active organizational member of Coalition for Police Accountability and our congregations stay regularly informed of the Commission activities and civic affairs that impact the Commission. We campaigned for Measure LL to establish the Commission in our East Oakland and West Oakland neighborhoods. While canvassing, I held numerous conversations with potential voters who were motivated to go to the polls in support of citizen oversight of a very broken OPD. After watching and supporting the Commission over several years, we support strengthening the Police Commission and increasing it's resources and independence.

Regarding Measure LL amendments, please pay attention to the following.

(a)4 - The Commission should be independently evaluated every two years in order to make sure that they work in accordance to a strategic plan that they develop with clear objectives. This performance evaluation should be done by either the City Auditor or an independent entity familiar with civilian oversight agencies.

Amend (b) 4 & 5 to require a simple majority vote rather than six votes to propose and approve or reject changes to OPD policies, procedures, customs or General Orders other than those specifically mentioned in existing Charter language.

Also, there is no need for the Council to vote by ordinance to allow the Commission to undertake any policy review. This is unnecessary and designed to limit the Commission's effectiveness at revising OPD policy.

(c) Appointments - We support ending Mayoral appointments to the Commission; at the least, we recommend cutting the number to one or two, not three.

Replace (e)5 with the following: The City shall allocate sufficient budget for a full-time staff person, to provide administrative support to the Commission, whose

From: Katherine Yagle
Sent: Monday, April 27, 2020 12:06 PM
To: Rus, Juanito
Subject: Public comment for oversight commission meeting tonight

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hi, my name is Katherine Yagle, I live in Oakland at 46th and West. My comment is:

I want to know what (if any) disciplinary action is being taken toward the officers who racially profiled and incorrectly identified a person for whom they had a warrant, smashing this innocent person's face into the ground and arresting him:

https://www.instagram.com/tv/B_ZlxObh_v/?utm_source=ig_web_copy_link

The two people arrested were delivering food and supplies to folks who are homeless – they were not doing anything illegal. This video has gone viral in Oakland and I want to know how OPD is responding.

Thank you

From: [REDACTED]
Sent: Monday, April 27, 2020 1:54 PM
To: Rus, Juanito
Subject: Comment re Measure LL clean up

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Please share with Commissioners:

We would like to share with you the guiding principle that our Coalition has followed in the many months we've spent deliberating and drafting our proposed clean up measure:

Any/all changes must enhance, not limit, the authority and independence of the Police Commission.

There are only so many opportunities to return to the voters to correct problems. So, if there are provisions in this measure that actually weaken the Commission by limiting its ability to function with respect to CPRA, the IG or the City's Administration, we will reject such a measure and oppose its passage in November.

This measure has always been about **removing obstacles** to the Commission's ability to function effectively, such as making sure that the Administrative support reports to the Commission and not the City Administrator. But some of what is now being proposed would actually diminish the Commission's authority to act – such as the idea of prohibiting the assigning of a discipline committee in cases where the CPRA findings match the Chief's -- or expecting the Commission to pay for litigation when there is no guarantee those resources are within the Commission's budget.

Please consider carefully every proposed change from this perspective: **Does this change give the Commission more authority than it currently has, or less?**

Thanks for considering our perspective.
Rashidah
Coalition for Police Accountability
<http://coalitionforpoliceaccountability.com>

