



CALL AND NOTICE OF SPECIAL MEETING AT 6:00 PM OF THE VALLEJO CITY COUNCIL

MARCH 4, 2025

COUNCIL MEMBERS

Andrea Sorce (Mayor)
Peter Bregenzer (Vice-Mayor)
Helen-Marie Gordon
Tonia Lediju, PhD
Alexander Matias
Diosdado "JR" Matulac
Charles Palmares

HYBRID MEETING
www.Cityofvallejo.net

Council Chambers
555 Santa Clara Street
Vallejo, CA 94590

NOTICE: Members of the Public will be able to participate in-person or remotely via Zoom	City Hall and the Council Chambers will be open to members of the public 30 minutes prior to the start of the meeting.
PUBLIC COMMENT: Members of the Public may provide public comments during the City Council Meeting in person or via ZOOM (https://ZoomRegular.Cityofvallejo.net), or via phone, by dialing (669) 900-6833.	For additional instructions on how to speak remotely during public comment, please visit, www.cityofvallejo.net/publiccomment
<u>VIEW THE MEETING:</u> There are four different ways you can view this public meeting: • In Person • Watch Vallejo local channel 28 • Stream from the City website: www.cityofvallejo.net/Streaming • Join the Zoom webinar: https://ZoomRegular.Cityofvallejo.net	Scan QR code for live captions and translation in Spanish and Tagalog. 
Hybrid Options are available for members of the public to participate. To participate remotely	
<u>Option to Join by Computer</u> From your browser go to https://ZoomRegular.CityofVallejo.net to launch and join the zoom application. Meeting ID: 914 0075 0676# Meeting Password: 131313	<u>Option to Join by Phone</u> Dial (669) 900-6833 Enter Meeting ID: 914 0075 0676# Meeting Password: 131313 Press *9 to digitally raise your hand from the phone. Press *6 to unmute/mute
Any supplemental writing related to an agenda item for an open session of a regular meeting that is distributed to all or a majority of all members of the City Council less than 72 hours before the meeting will be posted concurrently on the City's website at www.cityofvallejo.net/agendas Written material distributed during the meeting, will be available at the meeting if prepared by the City or after the meeting if prepared by someone else. Such materials may be obtained from the City Clerk	
	Vallejo City Council Chambers ADA compliant. Devices for the hearing impaired are available from the City Clerk. Requests for disability related modifications or accommodations, aids or services may be made by a person with a disability to the City Clerk's office no less than 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act of 1990 and the federal rules and regulations adopted in implementation thereof

AGENDA

TO THE MEMBERS OF THE VALLEJO CITY COUNCIL:

You are hereby notified that I do hereby call the Vallejo City Council in special session to consider only the matters stated on the agenda listed below. NOTICE: Members of the public shall have the opportunity to address the City Council concerning any item listed on the agenda before or during consideration of that item. No other items may be discussed at this special meeting

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGIANCE**
- 4. ACTION CALENDAR**

NOTICE: Members of the public wishing to address the Council on Action Calendar Items may do so in person by signing in to the Public Speaker's kiosk located in the back of the Council Chambers or via ZOOM (<https://ZoomRegular.Cityofvallejo.net>), or via phone, by dialing (669) 900-6833. Enter Meeting ID: 914 0075 0676#. Press *9 to digitally raise your hand from the phone. Press *6 to unmute/mute. For additional instructions on how to speak remotely during public comment, please visit, www.cityofvallejo.net/publiccomment. Each speaker is limited to five minutes pursuant to Vallejo Municipal Code Section 2.02.420 or as approved and announced by the Mayor. In person speakers will be recognized first

- A. APPROVE A SETTLEMENT AGREEMENT WITH THE VALLEJO POLICE OFFICERS ASSOCIATION SETTLING PERB COMPLAINT SF-CE-2038-M AND INTRODUCTION OF AN ORDINANCE AMENDING VALLEJO MUNICIPAL CODE TITLE 18, POLICE OVERSIGHT AND ACCOUNTABILITY COMMISSION (FIRST READING)**

Recommendation: Staff recommends that the City Council approve the settlement agreement and conduct the First Reading of the Amended Title 18 and introduce the ordinance with a second reading and adoption to be scheduled for a subsequent meeting.

Contact: Randy J. Risner, Chief Assistant City Attorney
randy.risner@cityofvallejo.net

- 5. ADJOURNMENT**

ADDITIONAL CITY INFORMATION

Members of the public can:

- Like us on Facebook and Instagram ([@cityofvallejo](#))
- Sign up to receive City Communications via e-mail (www.cityofvallejo.net/subscribe)
- Sign up for emergency alerts at: alertsolan.com

Dated: Friday, February 28, 2025



Andrea Sorce, Mayor

I, Dawn Abrahamson, City Clerk do hereby certify that I have caused a true copy of the above notice and agenda to be delivered to

Andrea Sorce (Mayor)
Peter Bregenzer (Vice-Mayor)
Helen-Marie Gordon
Tonia Lediju, PhD
Alexander Matias
Diosdado "JR" Matulac
Charles Palmares,

at the time and in the manner prescribed by law and that this agenda was posted at City Hall, 555 Santa Clara Street, CA at 10:00 a.m., Friday, February 28, 2025.

Dated: Friday, February 28, 2025





DATE: March 4, 2025
TO: Mayor and Members of the City Council
FROM: Veronica A.F. Nebb, City Attorney
Randy J. Risner, Chief Assistant City Attorney
SUBJECT: **APPROVE A SETTLEMENT AGREEMENT WITH THE VALLEJO POLICE OFFICERS ASSOCIATION SETTling PERB COMPLAINT SF-CE-2038-M AND INTRODUCTION OF AN ORDINANCE AMENDING VALLEJO MUNICIPAL CODE TITLE 18, POLICE OVERSIGHT AND ACCOUNTABILITY COMMISSION (FIRST READING)**

RECOMMENDATION

Staff recommends that the City Council approve the settlement agreement and conduct the First Reading of the Amended Title 18 and introduce the ordinance with a second reading and adoption to be scheduled for a subsequent meeting.

REASONS FOR RECOMMENDATION

The City Council adopted Title 18 on December 20, 2022 which required the City to meet and confer with VPOA concerning any proposed amendments to the ordinance. VPOA filed PERB action 2038 challenging the validity of Title 18. With the assistance of a PERB mediator, staff and VPOA conducted settlement meetings and reached a tentative settlement which is before Council this evening. The settlement is subject to the approval of Council. Staff supports these revisions and recommends approval because approval allows for immediate implementation of the ordinance.

Training meetings have now been conducted and more are being scheduled for the POAC members. If the City Council adopts the proposed amendments to the ordinance, the POAC will be fully operational upon the completion of the training program which staff anticipates to occur in May 2025.

BACKGROUND AND DISCUSSION

On December 20, 2022, the Vallejo City Council adopted Title 18 of the Vallejo Municipal Code entitled the Police Accountability and Oversight Ordinance. Title 18 provides for: (1) the establishment of a Police Oversight and Accountability Commission comprised of citizens appointed by the Council, (2) independent investigations of serious incidents such as use of force involving serious bodily injury, officer-involved-shootings and use of firearm events, and incidents of bias by professional, outside (non-City employee) investigators. Title 18 also created the office of the Independent Police Auditor to provide input into departmental policies and actions and to assist the Police Oversight and Accountability Commission.

Before the City Council adopted Title 18, the City began the mandated meet and confer process with the Vallejo Police Officers Association (VPOA). Multiple meetings were held prior to the adoption of the ordinance, however, because the process was not concluded before the end of the year, Section 3 was added to the draft ordinance before adoption, to allow the process to continue.

Specifically, Section 3 of Title 18 requires that the City meet and confer with the VPOA and consider any amendments to Title 18 they might propose. Section 3 prohibits implementation of the ordinance and action by the Commission until the completion of the meet and confer process.

Subject: APPROVE A SETTLEMENT AGREEMENT WITH THE VALLEJO POLICE OFFICERS ASSOCIATION SETTLING PERB COMPLAINT SF-CE-2038-M AND INTRODUCTION OF AN ORDINANCE AMENDING VALLEJO MUNICIPAL CODE TITLE 18, POLICE OVERSIGHT AND ACCOUNTABILITY COMMISSION (FIRST READING)

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Subsequent to the adoption of the ordinance and in compliance with Section 3, the standard meet and confer process continued from the December 22, 2022 adoption date through January 2023, when the VPOA filed an Unfair Labor Practices Charge with the Public Employment Relations Board (PERB). PERB is a California state, quasi-judicial, administrative agency that is responsible for administering the collective bargaining statutes covering public employees in California. PERB hears and decides complaints from public employee labor unions, including VPOA. The process, generally, is that a union first files an Unfair Labor Practices Charge with PERB. PERB then evaluates that charge and determines whether it will issue a Complaint. Once PERB issues a Complaint several things occur. First, the City becomes obligated to respond to the Complaint. Second, all activity, including any meet and confer process, essentially ends, pending a final PERB decision.

Cities normally respond to PERB Complaints with an Answer. After the Answer is filed, PERB appoints an attorney to serve as a Mediator. The Mediator then schedules an Informal Conference at which the parties discuss potential settlement. If a settlement is not reached, the case proceeds to a hearing before an Administrative Law Judge. The Administrative Law Judge hears the case and renders a decision. The decision is then sent to the PERB board, and a final decision is issued. This process can take 24 months or more and can result in an uncertain outcome. For more information about the PERB process please visit <https://perb.ca.gov/how-to-file-an-unfair-practice-charge/the-unfair-practice-charge-process-an-overview/>.

PERB issued its Complaint in July 2023 to which the City filed an Answer in August 2023. PERB held the first of many Informal Settlement Conference sessions in September 2023. At that conference, VPOA and the City agreed to engage in settlement discussions in an attempt to reach a settlement. These settlement discussions are confidential under state law and may not be discussed publicly. Staff met with the City Council in closed session to inform the Council, discuss the settlement possibilities and received direction.

With the assistance and oversight of the PERB Mediator, the City's outside labor attorneys and Staff continued to negotiate with VPOA through the PERB process, in an attempt to reach a settlement. Negotiations with VPOA continued throughout the remainder of 2023 and into 2024. The City and VPOA met and conferred on 12 separate occasions during that time period and held continued sessions with the PERB Mediator. Ultimately, the parties reached a tentative agreement subject to approval by the City Council. That proposed agreement included certain amendments to Title 18. The proposed amendments were taken to the City Council in closed session where staff received direction from the Council related to the proposed settlement. Thereafter, the proposed amendments were brought to a regular City Council meeting on November 12, 2024 for consideration. At the November 12, 2024 City Council meeting, Council decided to delay taking action on the proposed Settlement Agreement with VPOA to allow the new City Council, which began on January 7, 2025, an opportunity to participate in that decision.

The proposed amendments to the ordinance are included as an attachment and will be explained in detail during the City Council meeting. Staff will also give an overall presentation on the operative provisions of the ordinance and the powers of the POAC during the meeting.

Staff supports adoption of the amended ordinance specifically because it allows the POAC to proceed to become operative in the fastest manner possible. Staff is continuing to schedule and conduct the required training of the POAC, including training and presentations by independent subject matter experts. If the ordinance amendments are approved, Staff anticipates that the POAC will be fully trained and operational this Spring.

Subject: APPROVE A SETTLEMENT AGREEMENT WITH THE VALLEJO POLICE OFFICERS ASSOCIATION SETTLING PERB COMPLAINT SF-CE-2038-M AND INTRODUCTION OF AN ORDINANCE AMENDING VALLEJO MUNICIPAL CODE TITLE 18, POLICE OVERSIGHT AND ACCOUNTABILITY COMMISSION (FIRST READING)

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Prior to tonight's City Council meeting, Staff met with CalDOJ, our reform evaluator, Common Ground, the ACLU, the NAACP and the members of the Police Oversight and Accountability Commission relating to the proposed ordinance amendments. In addition, Staff published on the [MyVallejo.com](https://www.myvallejo.com) webpage for the Police Oversight Ordinance (<https://www.myvallejo.com/pom>) an explanation of the PERB process and timeline and updates on upcoming actions. POAC meeting dates will also be posted to the webpage in addition to the City's meeting page on the City's website.

It is important to note that as is true with other ordinances adopted by the City and contained in the Municipal Code, the POAC ordinance will be reviewed and evaluated periodically after initial implementation. In the case of the POAC Ordinance (similarly to other ordinances with duties for specific bodies such as the Planning Commission or Surveillance Advisory Board), such a review will include input by the POAC as well as the City Council. Depending on the content of any amendments at that time, such amendments may be subject to the City's obligation to meet and confer with VPOA.

FISCAL IMPACT

Adoption of the amended Title 18 will have no affect on the City budget. As is currently the case with the existing Title 18, the City still must budget for the tasks and positions outlined in the police oversight and accountability ordinance.

ENVIRONMENTAL REVIEW

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

ATTACHMENTS

1.	SFCE2038M.SettlementAgreement CAO Stamp
2.	Attachment A - 2025 Amended Police Oversight Ordinance

CONTACT

Randy J. Risner, Chief Assistant City Attorney
randy.risner@cityofvallejo.net

**STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD**



VALLEJO POLICE OFFICERS
ASSOCIATION,

Charging Party,

v.

CITY OF VALLEJO,

Respondent.

Approved as to form:

By:  for
Veronica Nebb, City Attorney

Case No. SF-CE-2038-M

SETTLEMENT AGREEMENT

In the interest of promoting harmonious labor relations between the parties and to avoid the uncertainty, inconvenience, and expense of litigation, the Vallejo Police Officers Association and the City of Vallejo, in settlement of the above-captioned unfair practice charge before the Public Employment Relations Board, agree as follows:

1. A dispute has arisen between the parties concerning the process by which the City of Vallejo passed Ordinance No. 1878 N.C. (2d) ("Ordinance"), adding Title 18 to the Vallejo Municipal Code.
2. The City of Vallejo agrees to make amendments to the Ordinance and the Chapter 18 Administrative Rules in accordance with the attached Appendix A to this Agreement.
3. Vallejo Police Officers Association withdraws Unfair Practice Charge No. SF-CE-2038-M with prejudice upon ratification of the Agreement by the Vallejo City Council in accordance with paragraph 7, below.
4. This Settlement Agreement does not constitute an admission of wrongdoing, contract or statutory violation, or liability on the part of any party to this agreement.
5. This Settlement Agreement represents a full and complete resolution of the claims and disputes between the parties based upon the above-referenced matter.

6. The undersigned parties represent that they have read and understand the terms of this settlement and that they are authorized to execute this Settlement Agreement on behalf of their principals.

7. The parties acknowledge that this Agreement is subject to ratification by the Vallejo City Council.

For Charging Party:

For Respondent:

Michael Nichelini
President, VPOA

Date

Veronica A.F. Nebb
City Attorney

Date

Appendix A

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VALLEJO AMENDING
TITLE 18 OF THE VALLEJO MUNICIPAL CODE ENTITLED POLICE OVERSIGHT
AND ACCOUNTABILITY**

[Deleted text is shown in ~~striketrough~~ and
added text is shown in ***bold italic***]

WHEREAS, on December 20, 2022, the City Council adopted Ordinance No. 1878 N.C. (2d) entitled Title 18 Police Oversight and Accountability (the “Ordinance”); and

WHEREAS, Section Three of the Ordinance required that the Ordinance not be implemented until completion of the meet and confer process with the Vallejo Police Officers Association (“VPOA”); and

WHEREAS, VPOA filed an action with the Public Employees Relations Board on July 26, 2023 (“PERB 2038”); and

WHEREAS, since the filing of PERB 2038, City staff has met multiple times with VPOA; and

WHEREAS, the Ordinance specifically recognizes the right of VPOA to propose amendments to the Ordinance; and

WHEREAS, as part of the meet and confer process and as part of a proposed settlement of PERB 2038, VPOA and the City tentatively agreed to amendments to the Ordinance.

NOW THEREFORE, the City Council of the City of Vallejo does hereby ordain as follows:

SECTION ONE

Title 18 of the Vallejo Municipal Code is hereby amended as follows:

TITLE 18 POLICE OVERSIGHT AND ACCOUNTABILITY

Chapter 18.01 Title and Purpose

18.01.010 Title

This ordinance shall be known as the “Police Accountability and Oversight Ordinance.”

18.01.020 Purpose

In adopting this ordinance, it is the intent of the City of Vallejo (“City”) to promote the health, safety and wellbeing of all residents by utilizing the best possible police practices and policies

while ensuring effective, efficient, trustworthy and just law enforcement. It is also the purpose of this ordinance to improve relations between law enforcement and the community of Vallejo and to continuously foster good relations between those who enforce the laws and the diverse community whom they serve. It is the desire of the City that the public take pride in local law enforcement and those who enforce the laws will take pride in their service to the public.

Chapter 18.02 Independent Investigations of Serious Incidents

18.02.010 Independent Investigations

- A. Any Serious Incident, as that term is defined in section 18.02.010D, involving a sworn police officer(s) employed by the Vallejo Police Department, shall be investigated by an independent investigator (“Independent Investigator”). Bias Incidents, as that term is defined in section 18.03.050C, as well as other potential policy violations, may be investigated by the Independent Investigator as set forth in section 18.03.050I.
- B. The City Manager, City Attorney and Human Resources Director shall, by consensus, select a contracted Independent Investigator after seeking advice and input from the Community Police Oversight and Accountability Commission (“Commission”) at a noticed, open regular or special meeting. In order to improve efficiency and timeliness, the City Manager may create a standing list of approved investigators. Thereafter, investigators may be selected from the list without seeking further advice and input from the Commission. The list shall be updated on an annual basis. The list shall be a public record that the Commission or the City Manager may make available to the public online.
- C. Any person or firm selected as an Independent Investigator shall have the following experience:
 - 1. Be specifically trained in workplace investigations with at least five (5) years of experience investigating workplace matters or public employment issues involving law enforcement agencies;
 - 2. Have an office or place of business within 100 miles of the City and be able to timely respond to Serious Incidents or other matters being investigated; and
 - 3. Have significant experience providing expert testimony before arbitrators or courts and able to cite to examples.

The Independent Investigator must not be a person who:

- 1. is a current employee of the City or any immediate family member of such a person as defined in section 18.03.020B(3);
- 2. has ever been a peace officer for any federal, state or local law enforcement agency;

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3. is a current or former employee of the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020B(3);
 4. is an attorney or law firm who represents or represented any person in any proceedings or matters adverse to the City;
 5. is a party in any proceedings or matters adverse to the City within the last five (5) years or any immediate family member of such a person as defined in section 18.03.020B(3); and
 6. is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commission or equivalent body involving a disciplinary matter.
- D. A Serious Incident shall be defined as any incident involving sworn members of the Vallejo Police Department and concerning:
1. an incident involving the discharge of a firearm at a person by a sworn officer(s);
 2. an incident in which the use of force by a sworn officer(s) against a person results in death or great bodily injury. Great bodily injury shall have the meaning set forth in Penal Code section 12022.7(f) and shall include, but shall not be limited to, any physical injury requiring medical treatment in a hospital. For purposes of this section hospitalization shall not include merely for routine medical clearance;
 3. an incident involving any in-custody death of any person which is preceded by the use of force against that person by a sworn officer, whether or not that force ultimately caused the death;
 4. an incident involving the death of any civilian which is preceded by the use of force against that person by a sworn officer, whether or not that force ultimately caused the death;
 5. an incident involving an allegation of sexual assault, by a sworn officer(s) against a person. "Sexual assault" shall have the meaning set forth in Penal Code Section 832.7(b)(1)(B)(ii) and "member of the public" shall have the meaning set forth in Penal Code section 832.7(b)(1)(B)(iii);
 6. an incident involving an allegation of dishonesty of a sworn officer(s) relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another sworn officer(s), including, but not limited to, perjury, false statements, filing false reports, destruction of evidence, falsifying evidence, or concealing of evidence. All allegations of dishonesty, whether under oath or not, are included in this section.
- E. The Independent Investigator shall conduct their investigation in parallel with any Internal Affairs investigation. All interviews conducted in any administrative
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investigation of Serious Incidents shall require the attendance of the Independent Investigator except that the initial interview conducted immediately after the occurrence of the Serious Incident may be conducted without the participation of the Independent Investigator if that person is unavailable.

1. All interviews of any subject or witness conducted by either the Independent Investigator or Internal Affairs shall be ~~video and audio~~ recorded. ***Interviews may also be video recorded provided that the investigator, and the subject or the witness, as applicable, agree to such video recording.*** All such ***audio and video*** recordings shall be maintained by the City for a period of seven (7) years and may not be destroyed or disposed of before the expiration of that time period.
 2. All audio and video recordings of any interview of any subject or witness shall affirmatively be made available to the Independent Investigator immediately, or as soon as possible, and in no event exceeding five days from the date on which the recordings were made.
 3. The Independent Investigator may conduct their own independent interviews of subjects and witnesses.
- F. The Independent Investigator may conduct investigations of matters and incidents, other than Serious Incidents as set forth in sections 18.03.050I, 18.03.060F or as otherwise set forth in this Title.
- G. Every City employee identified as a subject and every City employee identified as a witness in any investigation required by this chapter, shall cooperate to the fullest extent with the Independent Investigator. Failure to participate in interviews, provide documents, to be truthful and to otherwise cooperate shall be a violation of this section and shall subject any non-cooperating subject or witness to discipline, including potential termination, at the discretion of either the Chief of Police, if the employee works for the police department or City Manager, if the employee works for any other City department.
- H. The Vallejo Police Department and every City department shall cooperate with the Independent Investigator in providing all evidence determined relevant by the Independent Investigator including, but not limited to, recorded interviews, body-worn camera footage, car camera footage, written statements, investigative reports and all other files, documents and records requested by the Independent Investigator. No member of the Vallejo Police Department, City employee, or elected or appointed official shall interfere with the Independent Investigator or the conclusions of the Independent Investigative Report. Notwithstanding anything herein to the contrary, the Independent Investigator is not entitled to any documents protected by the Attorney Client privilege or the Attorney Work Product privilege unless such privilege is waived. Further, the Independent Investigator has no authority to interview any City elected official or City employee concerning any matters discussed in a closed session City Council meeting or a ~~Closed~~ ***closed*** session Commission meeting. The Independent Investigator may not access documents or other potential evidence produced solely for use in a closed session
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meeting. A closed session meeting is any meeting lawfully allowed to be held by a legislative body as set forth in Government Code section 54954.5.

- I. In conducting any investigation, the Independent Investigator shall reasonably “follow the evidence” and shall not be bound by any scope of work in any contract with the City when it comes to reasonably identifying and investigating the misconduct of an officer as set forth in this Title.
- J. The Independent Investigator shall have subpoena authority for records and other relevant material related to any independent investigation. No such subpoena shall issue, however, unless 30-days have elapsed since the Independent Investigator requested such records and they have not been provided. Any such subpoena may be enforced in the Solano County Superior Court and the City Attorney, or their designee, shall take the necessary steps to enforce such a subpoena.

18.02.020 Investigative Report

- A. The Independent Investigator shall prepare a written Investigative Report for each Serious Incident (“Independent Investigative Report”) or any complaint referred in accordance with the provisions of this Title. The Independent Investigative Report shall set forth findings of fact and a determination as to whether or not any Vallejo Police Department policies or City policies (the “Policy” or “Policies”) were potentially violated including any potential violations committed during the investigation (e.g., dishonesty during any investigative interview). The Independent Investigator shall make their findings based upon a preponderance of the evidence. The term “preponderance of the evidence” shall have the same meaning as found in the most recent version of CALJIC 2.50.2 or any successor section defining “preponderance of the evidence.”
- B. Upon conclusion of the investigation, the Independent Investigator shall submit a signed copy of the Investigative Report to the Commission, Independent Police Auditor (“IPA”), Chief of Police, the City Manager, the City Attorney and the Human Resources Director.
- C. Nothing herein is intended to imply that any person employed by the City, including the Chief of Police, the City Manager, the City Attorney or the Human Resources Director directs or supervises the Independent Investigator.
- D. The Independent Investigator shall conclude the investigation as promptly as possible. In no event shall the Independent Investigator conclude the investigation any later than ninety (90) days prior to the running of the time limitation set forth in Government Code section 3304(d).
- E. Nothing herein shall supersede or impede a sworn officer’s rights under the Peace Officer’s Bill of Rights or under any current Memorandum of Understanding with the Vallejo Peace Officers Association or any other rights set forth in law.
- F. No City employee shall influence or attempt to influence the outcome of any independent investigation or the contents of any investigatory report prepared by the Independent

Investigator. If, after investigation, it is discovered that a City employee engaged in such behavior, that employee shall be subject to discipline up to and including termination, at the discretion of the City Manager (if the employee is under the City Manager) or City Attorney (if the employee is under the City Attorney).

Chapter 18.03 Community Police Oversight and Accountability Commission.

18.03.010 Creation of Community Police Oversight and Accountability Commission

Pursuant to the provisions of the Charter of the City of Vallejo, there is hereby created a Community Police Oversight and Accountability Commission (the “Commission”). The Commission is an advisory board as described in section 403 of the Charter.

18.03.020 Membership and Terms of Community Police Oversight and Accountability Commission.

- A. The Commission shall consist of seven (7) Members and two (2) Alternate Members appointed by the Mayor and City Council. Each Council Member shall appoint a Member who is living within that Council Member’s District. However, if in the opinion of the appointing Council Member, there are no qualified candidates or in order to fulfill the City’s obligation for diversity set forth in section 18.03.020C, the Council Member may select a candidate outside of their District. The Mayor shall appoint one (1) Member from any District in the City. Council Member and Mayor appointments shall be subject to the ratification of a majority of the City Council. In the event majority approval is not obtained, the appointing Council Member or Mayor shall select a different individual to serve as a Member of the Commission, and the process shall continue until a majority vote is obtained. In addition to the aforementioned Members, the Mayor and City Council shall collectively appoint one (1) youth member between the ages of 18-25 and one (1) community member as Alternate Members. Alternate Members must meet all the qualifications and training requirements set forth herein and are subject to the same laws, rules and regulations as Members unless specifically modified by this Title. Alternate Members shall participate in Commission meetings but shall not vote unless there is an absence on the Commission as set forth in section 18.03.100F below.
- B. The City Council may not appoint any Member who:
 - 1. is not a qualified elector in the City;
 - 2. is a current employee of the City or any immediate family member of such a person as defined in section 18.03.020B(3);
 - 3. is currently employed as a peace officer by any local, state or federal law enforcement agency or who has been employed as such or who is an immediate family member of any such person. For purposes of this Title, an immediate family member is a current spouse, a child, a parent or a sibling;

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4. is a current or former employee of the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020B(3);
 5. is an attorney or law firm who represents or represented any person or entity in any proceedings or matters adverse to the City;
 6. is a party to any proceeding or matter adverse to the City within the last five (5) years or any immediate family member of such a person as defined in section 18.03.020B(3);
 7. ~~Is~~ is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commission or equivalent body involving a disciplinary matter; or
 8. has ever been convicted of any of the following crimes:
 - i. Any crime requiring registration as a sex offender pursuant to any state or federal law;
 - ii. Any crime involving the abuse of a child;
 - iii. Any felony involving physical harm to a law enforcement officer.
- C. The City Council shall use its best efforts to appoint Members reflecting the race, color, religious, sex/gender, gender identity, sexual orientation, marital status, medical condition, veteran/military status, national origin, ancestry, disability, genetic information and age diversity of the City of Vallejo. In soliciting applications from the public for Commission membership, the City shall target application solicitations to community groups specifically representing the diversity of the City.
- D. Each Member shall serve as a volunteer without pay.
- E. Applications for membership on the Commission shall be through the process defined in section 2.02.350 of this code and any applicable state law for publicizing openings for appointments to boards and commissions. All applications shall be submitted to the City Clerk who will distribute them to the Mayor and all members of the City Council. The Council District in which the applicant lives shall be shown clearly on the front of each application. The City Council shall conduct interviews of eligible applicants at a public meeting that has been noticed at least 72-hours in advance.
- F. The term for each Member shall be as set forth in section 2.26.030 of this code including the staggering provisions in 2.26.030B. Alternate members shall not be subject to the staggering requirement set forth in section 2.26.030. Individual Council Members, the Mayor and the City Council as a whole may be referred to herein, either collectively or individually, as the "Appointing Authority."
- G. A Member may hold office for no more than eight (8) consecutive years. Former Members may be reappointed after a break in service of at least two (2) years.
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- H. Alternate Members may serve only one, four-year term and shall not be reappointed as an Alternate Member. An Alternate Member may be appointed as a regular Member after any length of service as an Alternate Member. Service as an Alternate Member shall not count toward the eight (8) concurrent year limitation for service as a Member.
 - I. Notwithstanding anything to the contrary herein, each Member and Alternate Member shall continue to serve until their replacement is appointed.
 - J. Unless modified by this ordinance, Members may be removed as set forth in Chapter 2.26. In addition, a Member shall be removed if any Member is convicted of any felony or any crime as set forth in section 18.03.020B(7).
 - K. A Member shall be removed by the City Council if that Member discloses confidential information regarding any police officer, any police investigation, any information received by Members in closed session, any information that is protected by the attorney/client privilege or any other City information provided to the Member in confidence and that is prohibited from disclosure by state or federal law or the disclosure of which would subject the City to liability. If a Member is suspected of disclosing any such confidential information, the City Manager at the request of the City Council or upon the City Manager's own recommendation, may initiate an investigation. If the investigator finds by a preponderance of the evidence, as that term is defined in CALJIC 2.50.2, that the Member willfully disclosed such confidential information or failed to take affirmative action to protect such information from disclosure, then the City Council shall remove the Member and a new Member shall be appointed by the City Council using the process set forth herein.
 - L. In the event of a vacancy caused by resignation and/or disability or death, the Appointing Authority may appoint a replacement to fill out the remaining period of the term pursuant to Chapter 2.26 of this code.
 - M. At the City's sole cost and expense, all Members shall be subjected to a live scan fingerprint check, to include a check of FBI and California Department of Justice criminal databases before beginning service on the Commission and at each appointment or reappointment thereafter or at the discretion of a majority of the City Council. A Member's appointment shall be revoked if the background check reveals that the Member has been convicted of any of the crimes set forth in section 18.03.020B(7). To the extent allowed by law, any live scan report shall be kept confidential.

18.03.030 – Commission staff.

- A. The City Manager shall appoint a member of City staff to support the Commission ("Commission Secretary") after seeking advice and input from the Commission at a noticed, regular or special meeting. Said meeting shall be held in either open or closed session as legally required when discussing personnel matters. The Commission Secretary shall prepare the Commission's agendas, prepare staff reports and supporting materials, serve as the secretary of the Commission, keep the Commission's minutes
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and be the Commission's custodian of records. In preparing agendas for the Commission, the ~~Chair~~ **chair** and vice-chair shall convene to set the Agenda and shall consult with the Commission Secretary as well as the Assigned Attorney, as that term is defined below, for advice concerning the legality of the Agenda. The Commission Secretary may not be an employee, either civilian or sworn, of the Vallejo Police Department. The Commission Secretary shall provide administrative support only and shall not provide any direction to the Commission or attempt to influence matters of policy.

B. The City Attorney shall assign a qualified attorney to provide legal advice to the Commission on matters concerning the Commission ("Assigned Attorney") after seeking advice and input from the Commission at a noticed regular or special meeting. The Assigned Attorney may be either an employee of the City Attorney's Office or a contracted attorney or both. The Assigned Attorney shall review all agenda items for the Commission to ensure compliance with the Ralph M. Brown Act and any other applicable laws and regulations. The Assigned Attorney shall also ensure that the items on the agenda do not exceed the subject matter jurisdiction of the Commission as set forth in this Title. In addition, the Assigned Attorney shall attend and provide legal advice at all regular and special meetings of the Commission. The Assigned Attorney shall also attend all Commission closed session meetings. In the absence of the Assigned Attorney, the City Attorney, at their discretion, may appoint an alternate to temporarily perform the duties of the Assigned Attorney. The Assigned Attorney shall provide legal advice only and shall not provide any direction to the Commission or attempt to influence matters of policy. The Assigned Attorney shall not be an attorney directly involved in litigation matters involving the Vallejo Police Department. The Assigned Attorney shall have the following minimum qualifications:

1. A municipal attorney with a minimum of five (5) years' experience representing California cities and/or other California public agencies as either a City Attorney, Assistant City Attorney, Deputy City Attorney or equivalent role;
2. Possession of a Juris Doctor from an accredited law school;
3. Experience in police personnel and disciplinary matters and the related California law;
4. Experience in human resources; and
5. Experience in police oversight.

C. The Assigned Attorney may not be a person who:

1. is currently employed as a peace officer by any local, state or federal law enforcement agency or who has been employed as such or who is an immediate family member of any such person as defined in section 18.03.020B(3);

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2. is a current or former employee of the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020B(3);
 3. is an attorney or law firm who represents or represented any person or entity in any proceedings or matters adverse to the City;
 4. is a party to any proceeding or matter adverse to the City within the last five (5) years or any immediate family member of such a person as defined in section 18.03.020B(3); or
 5. ~~Is~~ is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commission or equivalent body involving disciplinary matters.
- D. The Chief shall assign themselves or a Deputy Chief to serve as a Police Liaison to the Commission. The Police Liaison shall be responsible for answering questions from Members, providing information to Members and ensuring that Members have access to records and information in possession of the Vallejo Police Department as needed by the Commission to perform its duties and functions. The Police Liaison shall attend all meetings of the Commission. The Police Liaison may attend closed session meetings at the discretion of the Commission.
- E. At least one member of the City Council shall be appointed as a Commission liaison in the same manner as other council liaison appointments to boards and commissions.

18.03.040 Commission Training

- A. Within nine (9) months of appointment, each Commissioner shall attend training provided/funded by the City as follows:
1. regarding the provisions of the Vallejo City Charter and with the Vallejo Municipal Code applicable to Department members and/or operations;
 2. regarding the California Political Reform Act (Cal. Gov't Code section 81000, *et seq.*), Vallejo's Conflict of Interest Code, the California Brown Act (Cal. Gov't Code section 54950, *et seq.*), and the California Public Records Act (Cal. Gov't Code section 6250, *et seq.*), and all local rules relating thereto;
 3. regarding basic principles of constitutional due process and administrative hearings, as the same relate to peace officers;
 4. regarding the legal requirements for maintaining the confidentiality of personnel records and other confidential documents or information;
 5. regarding constitutional rights guaranteed to all residents as such rights are affected by law enforcement;
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6. regarding the Meyers Miliias Brown Act (Cal. Gov't Code section 3500, *et seq.*) (MMBA), the Public Employment Relations Board's administration of the MMBA, the City's Memoranda of Understanding with the Vallejo Police Officers' Association (VPOA), Confidential Administrative Management Personnel (CAMP), International Brotherhood of Electrical Workers (IBEW) and other relevant City personnel policies and procedures applicable to the Vallejo Police Department and City employees;
 7. regarding the California Public Safety Officers Procedural Bill of Rights Act (Cal. Gov't Code section 3300, *et seq.*), and other California Code sections pertaining to peace officers' rights;
 8. regarding anti-discrimination, harassment, bias, diversity, inclusion and racial equity;
 9. regarding procedural justice; and
 10. regarding trauma informed care.

B. In addition to the above, Members shall:

1. Complete Peace Officer Standards and Training (POST) or equivalent training relating to Search and Seizure and Arrest;
2. Complete Crisis Intervention Training including review of the Department's training relating to same;
3. Participate in a Department "ride along" and attend a police training program with curriculum designed by the Chief of Police after consultation with the Commission;
4. Attend within 18 months of appointment, or as soon thereafter as possible, the annual conference offered by the National Association for Civilian Oversight of Law Enforcement ("NACOLE") or a similar organization focused on police oversight, if and as budgeted by the City Council.

Nothing herein shall prevent Members from receiving training outside of Commission meetings and it is specifically authorized that Members may receive training from outside consultants, from the police department, from POST, and online if the Assigned Attorney concludes that such training meets the requirements set forth in this ordinance.

- C. Members shall not participate on the Commission until the training identified in 18.03.040A(1-9) above is completed. Members may participate in Commission matters without the training in 18.03.040B(1-4). Members shall complete the required training (excepting Item B. 4. above which is optional) within nine (9) months from the date of appointment unless said time is extended by the City Council. In the event a Member fails to complete the required training during the time allotted by this Chapter, that Member shall be removed and replaced with a new appointment. Notwithstanding

anything to the contrary herein, Members may attend Commission meetings before completing the required training for the purpose of receiving such training.

- D. The City Manager, Police Chief and City Attorney shall timely assist the Commission in scheduling and facilitating all training required by this section so that Commissioners have the opportunity to complete the training within the nine-month period without hindrance from the City.
- E. To the extent possible, Commission training sessions shall be video recorded so that Commissioners who are unable to attend a training session may make up the missed training by watching the video. Video recordings of training sessions shall be available to the public.

18.03.050 Commission powers, duties and functions.

The powers, duties and functions of the Commission are as follows:

- A. To review all Independent Investigative Reports and all Internal Affairs reports and all supporting evidence used by the Independent Investigator or the Internal Affairs investigator concerning any Serious Incident and *may* provide ~~an recommendation~~ *opinion* concerning the findings thereof, to the Chief of Police and the City Manager. While the Commission shall not be limited in its ~~recommendation~~ *opinion*, it ~~may~~ shall specifically either agree or disagree with the factual findings and proposed policy violation conclusions ~~and state the reasons therefore.~~. The Commission may also, upon review of the Independent Investigative Report and/or the Internal Affairs report, recommend further investigation. All reviews and ~~recommendations~~ *opinions* shall be submitted by the Commission to the Chief of Police and the City Manager within 60 days of the submission of the Independent Investigative Report to the Commission. In no event shall the ~~recommendations~~ *opinion* be submitted to the Chief of Police and the City Manager less than 30 days prior to the running of the time limitation set forth in Government Code section 3304(d). In the event it is not received within the aforementioned time period, the Commission shall be deemed to have declined review;
- B. To request the assistance and advice of the IPA on any matter within the subject matter jurisdiction of the Commission;
- C. To review the investigatory report provided by the Chief of Police as set forth in section 18.03.060E (whether prepared by the Independent Investigator or the Internal Affairs Division) relating to all complaints involving bias, discrimination, any threat or intimidation or coercion (or any attempt thereof), relating to sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, gender identity, citizenship, primary language, military/ veteran status or immigration status, ("Bias Incident") by a sworn officer whether in the performance of their duties or otherwise, and *may* provide ~~an recommendations~~ *opinion* concerning the findings and/or policy violations thereof to the Chief of Police and the City Manager. The Commission may also, upon review of the investigative report, recommend further investigation and/or changes in policy and training. All

~~recommendations~~***opinions*** shall be submitted by the Commission to the IPA and the Chief of Police within sixty (60) days of the submission of the Investigative Report to the Commission. In no event shall the ~~recommendation~~***recommendation or opinion*** be submitted to the Chief of Police less than thirty (30) days prior to the running of the time limitation set forth ~~In~~***in*** Government Code section 3304(d). In the event it is not received within the aforementioned time period, the Commission shall be deemed to have declined review;

- D. To advise the Mayor, City Council, City Manager and Chief of Police on all police community relations issues;
- E. To conduct public outreach to educate the community on the purpose of the Commission;
- F. To create and maintain, with the assistance of the City's Information Technology department, a Commission webpage with information about the Commission's powers, duties and functions as well as other information related to the subject matter jurisdiction of the Commission;
- G. To receive written complaints, including anonymous complaints, from the public alleging misconduct by sworn Vallejo Police Department Officers. The Commission Secretary shall immediately forward (within two (2) business days of receipt) all such complaints delivered to the Commission to the Chief of Police for investigation and the Chief of Police shall confirm to the Commission that the complaint has been received and logged by the Department. All complaints involving Serious Incidents, as defined in Section 18.02.010D shall also be forwarded by the Commission to the City Manager, Human Resources Director and City Attorney for investigation by an Independent Investigator as set forth in Chapter 18.02;
- H. The Chief of Police ***shall, within ten (10) business days, forward or cause to be forwarded to the Commission, or any other City Department that receives public complaints shall immediately forward (within 2 business days) or cause to be forwarded to the Commission, any complaints from the public they have received by the Police Department concerning misconduct by Sworn Officers of the Police Department. This shall include all complaints concerning Bias or any Serious Incident as defined in this ordinance even though those complaints may have been deemed to be unfounded by the Police Department. The Police Department, in the discretion of the Chief of Police, may forward any written determination by the department that a complaint is unfounded.*** For the purpose of forwarding complaints to the Commission, the Chief of Police ~~or other receiving Department~~ may forward them to the Commission Secretary;
- I. ***Any other City Department that receives public complaints shall immediately forward (within ten (10) business days) or cause to be forwarded to the Commission any complaints received from the public concerning misconduct by Sworn Officers of the Police Department. For purposes of forwarding complaints to the Commission, other City Departments may forward complaints to the Commission Secretary. Upon receipt, the Commission Secretary shall, within ten (10) business days, forward said complaints to the Chief of Police;***

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- J. The Commission may request that any complaint be investigated by an Independent Investigator, whether said complaint was initially received by the Commission, by the Police Department or by another City Department. Requests for referral to an Independent Investigator shall be granted for any Serious Incident or Bias Incident. The Commission may also request that the Chief of Police refer complaints relating to other matters to an Independent Investigator and may appeal to the City Manager if the Chief declines the referral to an Independent Investigator;
- K. Recognizing that individuals may feel uncomfortable filing complaints with the Vallejo Police Department, to make complaint forms available to the public by posting complaint forms and information about the complaint process on the Commission webpage and at other public locations, as an alternative to filing complaints with the Vallejo Police Department and accepting the online filing of complaints, including anonymous complaints;
- L. To ensure that the City and the Vallejo Police Department make information about the complaint process and appropriate forms available at other public locations and to provide ~~recommendation~~ **opinions** to the City and the Vallejo Police Department about the complaint process;
- M. To review and/or **give opinions** ~~make recommendations~~ concerning the factual findings contained in any investigation of any filed complaint to the Chief of Police and/or City Manager;
- N. To review and/or **give** ~~make a recommendation~~ **opinions** to the Chief of Police or City Manager concerning whether disciplinary action should be imposed relating to any violation of policy found to exist in any investigatory report of a Serious Incident or Bias Incident or other incidents referred to the Independent Investigator;
- O. To review and/or provide ~~an recommendation~~ **opinion** to the Chief of Police in closed session concerning any draft Notice of Intended Discipline (NOID) for any Serious Incident or Bias Incident. The Chief shall consider any such ~~recommendation~~ **opinion** before imposing any discipline within the time frame set forth in Government Code section 3304(d);
- P. To review, advise and provide ~~recommendation~~ **opinions** regarding any new Police policy or concerning any modification or revision of any such policy and to independently propose new policies in their discretion. The Chief of Police shall submit all proposed new policies or revisions to existing policies to the Commission for review before implementation of said policies or revisions. The Commission shall provide its advice and ~~recommendation~~ **opinion** to the Chief of Police within forty-five (45) days of the submission of any new or revised policy. If the Chief of Police receives no ~~recommendation~~ **opinion** from the Commission concerning the proposed policy or revision within the 45-day time frame, the Chief may move forward with implementation. This requirement shall not apply to Special Orders of the Chief of Police which may be implemented without ~~an recommendation~~ **opinion** from the Commission. Notwithstanding the foregoing sentence, the Chief of Police shall not use Special Orders
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to circumvent the policy-review provisions set forth herein. If a Special Order has been in existence for more than six (6) months, the Chief of Police shall seek a review and ~~recommendation~~ *opinion* from the Commission concerning the Special Order;

- Q. To request a report from the Chief of Police regarding existing police training. To review, advise and provide ~~recommendation~~ *opinions* to the Chief of Police on any new or revised police training deemed advisable by the Commission. The Chief of Police shall provide a report to the Commission concerning the implementation or non-implementation of any ~~recommendation~~ *opinion* by the Commission;
- R. To review and comment upon the Vallejo Police Department's policy and/or practice of publishing data sets and reports regarding various Vallejo Police Department activities, submit comments concerning those data sets and reports to the Chief of Police and request that the Chief of Police consider said ~~recommendations~~ *opinions* and provide a written response to the Commission;
- S. To prepare and submit an annual report (the "Commission's Report") to the Mayor and City Council, with copies to the City Manager and Chief of Police, on Commission activities. Said report shall be submitted for the previous year on or before April 15 of each calendar year. The Commission's Report shall be made available to the public. The Commission, in its discretion and after consultation with the Assigned Attorney, may also produce a confidential report addressing confidential matters and present the same to the Chief of Police. The City Council shall review and accept any such reports submitted to them by the Commission in either open session or closed session as legally appropriate;
- T. To make recommendations to the City Council for enacting legislation or regulations that will further the goals and purposes of this Title. To the extent legally permissible, the Commission shall discuss such recommendations in public meetings of the Commission;
- U. To review and advise upon any of the City Council's proposed legislation or regulations related to the subject matter jurisdiction of the Commission. Before consideration or introduction of any such proposed legislation, the City Attorney or designee, shall submit such proposed legislation to the Commission for review. Once submitted, the Commission shall have sixty (60) days to submit any recommendations to the City Attorney unless such time is extended by agreement with the City Attorney. If deemed necessary by the City Council, the City Council may direct that the Commission provide recommendations in a shorter time period. The City Attorney shall include the Commission's recommendations when the legislation is presented to the City Council;
- V. Solicit and consider input from the public concerning public interactions with the Vallejo Police Department;
- W. To refer any matter within the Commission's subject matter jurisdiction that the Commission in its discretion determines warrants additional investigation or action to the Solano County District Attorney, the California Attorney General or to any other state or federal agency responsible for investigating and/or prosecuting wrongdoing by sworn police officers;

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- X. In accordance with the City's record retention policy, and the requirements of *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, to retain and maintain all electronic communications to, from and/or copied to any Commissioner on the Commissioner's personal email, text messages and social media concerning all matters of City business, whether or not within the subject matter jurisdiction of the Commission, and to provide such communications to the City upon request;
- Y. The Commission shall have authority to lobby the State Legislature, the Governor, State Departments, Congress and other Federal offices concerning any matter within their subject matter jurisdiction. ~~however~~ **However**, they shall make clear in any such communication that their lobbying efforts are on their own behalf, rather than on behalf of the City, unless they have sought and received City Council approval in advance;
- Z. The Commission shall have subpoena authority for records and other relevant material concerning any matter before them. No subpoena shall issue however, unless 30 days have elapsed since any such records were requested by the Commission and ~~the~~ have not been provided. Any such subpoena may be enforced in the Solano County Superior Court and the City Attorney or their designee shall take the necessary steps to enforce such a subpoena;
- AA. All amounts allocated to the Commission for expenditures are at the discretion of the City Council. Before any submission of the Commission's annual budget to the City Council, the City's Finance Director shall submit the proposed budget to the Commission for review. The Commission shall submit any recommendations to the Finance Director and to the City Council within 45 days of receipt. If the Commission does not submit its recommendation within the 45-day time period, the City Council may adopt the budget without considering a Commission recommendation;
- AB. To the extent permitted by California state law, the Commission shall, upon request, release to the public all disclosable public records within the possession of the Commission;
- AC. The Commission may hold public study sessions concerning any matter within its subject matter jurisdiction;
- AD. All ***opinions*** ~~and recommendations~~ by the Commission shall be by written resolution adopted by a majority of its voting members. Resolutions ***or opinions*** dealing with confidential matters shall remain confidential to the extent required by law.

18.03.060 Obligations of the Chief of Police and Police Personnel

- A. The Chief of Police and Vallejo Police Department personnel shall cooperate fully with the Commission and the IPA on all matters within the subject matter jurisdiction of the Commission. The Chief of Police shall provide all records requested by the Commission and the IPA related to any matter currently before the Commission and being reviewed by the Commission and/or the IPA. The Chief of Police or their designee shall appear before the Commission upon request of the Commission and give reports and/or answer

questions of the Commission relating to matters within the subject matter jurisdiction of the Commission.

- B. The Chief of Police may make a preliminary determination on any disciplinary matter involving a Serious Incident or Bias Incident but, shall not impose any discipline until the Commission ~~makes~~ *gives* its ~~recommendation~~ *opinion* on the Independent Investigation and the Chief considers the ~~recommendation~~ *opinion*.
- C. The Chief of Police shall report to the Commission their final determination on any policy violation and any resulting disciplinary matter concerning a Serious Incident or Bias Incident. In the event the Chief of Police does not follow the ~~recommendation~~ *opinion* of the Commission relating to a policy violation, they shall provide a justification to the Commission in closed session.
- D. The Commission may report any failure of the Chief of Police, or any other City employee, to cooperate fully with the Commission to the City Manager. The City Manager, in their discretion, may impose discipline upon the Chief of Police, or other City employee reporting to the City Manager for any willful or unlawful failure to cooperate.
- E. The Chief of Police shall submit the investigatory report (whether prepared by the Independent Investigator or the Internal Affairs Division) relating to all complaints involving a Bias Incident by a sworn officer, whether in the performance of their duties or otherwise, to the Commission for review and ~~recommendation~~ *opinion for further investigation*.
- F. The Chief of Police, in their discretion, may request that an Independent Investigator be assigned to investigate any other potential policy violation not referenced in this Title and provide the investigation to the Commission for a ~~recommendation~~ *opinion*.
- G. In the event the Chief of Police declines to follow any ~~recommendation~~ *opinion* of the Commission on any matter within the subject matter jurisdiction of the Commission, the Chief of Police shall provide a written justification to the City Manager and to the City Council. After reviewing the Chief's written justification, the City Manager may, in their discretion, direct the Chief of Police to follow the Commission ~~recommendation~~ *opinion*.

18.03.070 Reports by Chief of Police

- A. The Chief of Police shall prepare and present an annual report to the Commission concerning matters of investigation of complaints, Serious Incidents, Bias Incidents, policy review and training. Said report shall be submitted to the Commission, with copies to the City Manager and IPA no later than January 30 of each year. The Commission may use the Chief's Report in preparing its own annual report as required by section 18.03.050R of this Title.
- B. The Chief of Police shall provide a confidential quarterly report to the Commission and to the City Manager on all disciplinary matters. The Commission shall review and

discuss all such reports in either open session or closed session as legally applicable, and, in their sole discretion, *give opinions* ~~make recommendations~~ to the Chief of Police and the City Manager concerning the matters set forth in such reports.

- C. The Chief of Police shall prepare and submit a quarterly report to the Commission and the City Manager on the outcome of all complaints. The Commission shall review and discuss all such reports in either open session or closed session as legally applicable, and, in their sole discretion, *give opinions* ~~make recommendations~~ to the Chief of Police and the City Manager concerning the matters set forth in such reports.

18.03.080 Access to Confidential Information

- A. Subject to applicable law, the Commission shall have access to all Vallejo Police Department files and records and to all files and records of other City offices, departments or agencies that are within the subject matter jurisdiction of the Commission and which are relevant to the performance of the Commission's duties. Notwithstanding the foregoing, the Commission shall not have access to documents that are protected by the Attorney Client or Attorney Work Product privilege unless authorized by the City Attorney and City Council. Further, in connection with the review of investigatory reports and disciplinary matters the Commission may have limited electronic access as set forth in B below, to records considered to be police personnel records as defined in Penal Code sections 832.8(a)(4) and 832.8(a)(5). In addition, the Commission shall not have access to the entirety of any individual personnel files of sworn employees of the Vallejo Police Department. For purposes of this section, Attorney Client and Attorney Work Product privilege shall apply to information directly related to and prepared for the purposes of litigation including, but not limited to, expert reports, the City's litigation strategy or legal opinions prepared for the City Council.
- B. Confidential documents, files and records shall be made available to Members in electronic format on a secure server and shall be password protected. Each Member shall have a unique password that identifies the accessing Member. Printing of such documents shall be disabled if technologically possible. Members shall be prohibited from printing, photographing or otherwise copying any such records. Printing, photographing or otherwise copying or dissemination of such records in any manner by any Member shall be a violation of section 18.03.090 below and shall subject the Member to the consequences and punishment set forth herein

18.03.090 Confidentiality.

- A. All personnel records, investigative reports, confidential documents generated within the City of Vallejo Police Department or within the City, information relating to closed session deliberations of the Commission, and any other privileged matters, shall be kept confidential by Members of the Commission.
- B. Any Member found to have willfully disclosed confidential records or information or to have failed to take affirmative steps to prevent the disclosure of confidential records or information shall be removed by the City Council as set forth in section 18.03.020J of

this chapter. If, after investigation as set forth in 18.03.020J it is determined by a preponderance of the evidence, as that term is defined in CALJIC 2.50.2, that a Member disclosed confidential records or information, in addition to being removed from the Commission, the Member shall be subject to an administrative fine of up to \$2,500 for violation of this section.

18.03.100 Commission meetings and governance.

- A. ~~Initially, the~~ The Commission shall hold regular meetings ~~on the~~ every month beginning with the first full month after appointment of the Members ***with the date to be determined by the City Manager***. The Commission may schedule and hold any number of Special Meetings. The Commission may modify its meeting schedule by adoption of bylaws as set forth in section 18.03.110 herein. Provided there is no business for the Commission to conduct at a regular meeting (i.e., there are no items requiring Commission action or discussion on the agenda), the Commission Secretary may cancel a regular meeting as long as such cancellation occurs at least seventy-two (72) hours before the scheduled start of the meeting. The Commission Secretary may also cancel any meeting in the event of an emergency declared by the emergency authority of the city, state or federal government. If there is a need to cancel a meeting for any other reason, the Commission Secretary may only cancel such meeting with the written consent of the Commission chair and vice chair. Any meeting cancellation must be in writing and must clearly state the reason for the cancellation. The Commission may change this cancellation policy by adopting City Council approved bylaws as set forth in section 18.03.110 herein. All meetings of the Commission shall be subject to the Ralph M. Brown Act and, to the extent possible, be video recorded and publicly broadcast.
- B. At the first meeting of the Commission, Members shall select from among themselves a Chair and Vice Chair.
- C. The Commission may not continue with any meeting unless a quorum is present. Four (4) Members shall constitute a quorum.
- D. All actions of the Commission require a majority vote of Members present.
- E. The Commission shall consider all personnel and otherwise confidential matters in closed session to the extent permitted by law.
- F. In the event a Member is absent at a Commission Meeting for any reason, an Alternate Member shall be entitled to vote in the Member's absence. If more than one Member is absent from a Commission Meeting, both Alternate Members shall participate in voting at the meeting and each shall have one vote. If only one Member is absent, the Secretary shall draw lots to determine which Alternate Member will participate in voting.

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- G. Upon initial appointment of all Members after adoption of this ordinance, Members shall meet at least twice per month for the training prescribed herein until such training is complete. Thereafter, trainings shall be held as needed to update previous training or to train new Members. These initial training meetings may be either regular or special meetings.

18.03.110 Bylaws.

The Commission may recommend the adoption of bylaws governing its operations to the City Council. Any such bylaws shall recognize the subject matter jurisdiction of the Commission as set forth in this Chapter 18.03 and shall not modify or alter said subject matter jurisdiction. Commission bylaws shall be submitted to the City Council for adoption or amendment before implementation thereof by the Commission.

18.03.120 – General rules and regulations.

The Commission shall comply with the general rules and regulations for all boards, commissions and committees as set forth in Chapter 2.26 of this code unless otherwise modified by this Chapter 18.03 or as provided by ordinance or resolution of the City Council.

Chapter 18.04 Independent Police Auditor

18.04.010 Creation of Office of Independent Police Auditor

There is hereby created the office of Independent Police Auditor (IPA). The IPA may be a full-time, part-time or contracted position at the discretion of the City Manager. The City Manager shall appoint this position after seeking advice and input from the Commission. Notwithstanding anything in this code to the contrary and notwithstanding the amount of any such contract, all contracts for an Independent Police Auditor shall be approved by the City Council. Recognizing the importance of the role of the IPA, the City Council shall, in good faith, review any such contract submitted to it by the City Manager and shall not unreasonably withhold approval.

18.04.020 IPA Qualifications

The IPA shall have the following minimum experience and/or training:

- A. Possession of a graduate degree in Criminal Justice, Criminology, Law, a Juris Doctorate or a closely related field from an accredited college or university. Appropriate relevant experience may substitute for the education requirement;
- B. Experience in police practices, policy and training;
- C. Experience and understanding of the Police Officers Bill of Rights and other applicable laws related to sworn employees;

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- D. Experience in human resources;
 - E. Other experience in the discretion of the City Manager.

Prior to appointment, the IPA shall submit to a criminal background check as a condition of appointment. The IPA may not be:

1. an individual currently employed by the City or any immediate family member of such a person as defined in section 18.03.020B(3);
2. an individual who is a Consultant, for other purposes than the IPA, retained by the City within the preceding twelve (12) months;
3. a current or former sworn officer with the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020B(3);
4. an individual currently employed as a Peace Officer by any other local, state or federal law enforcement agency or who has ever been employed as such or any immediate family member of such a person as defined in section 18.03.020B(3);
5. an attorney or law firm who is representing or has represented a party in any proceedings or matters adverse to the City,
6. an individual who is or was a party to any proceedings or matters adverse to the City or is an immediate family member to any such person within the last five (5) years; or
7. ~~Is is~~ an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commission or equivalent body involving disciplinary matters;

18.04.030 Duties of the IPA

The IPA shall have the following minimum duties:

- A. The IPA shall receive timely notification of Serious Incidents to enable them to report to the scene of Serious Incidents for the purpose of first-hand observation. The IPA and the Chief of Police shall develop necessary protocols for notifying the IPA about the Serious Incident and granting scene access.
 - B. The IPA may be present during the interviews of witnesses and subjects during any investigation of a Serious Incident or other incidents assigned to an Independent Investigator or Internal Affairs.
 - C. The IPA shall review all final Investigatory Reports, whether by an Independent Investigator or Internal Affairs, associated with Serious Incidents and **may provide an**
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~~recommendation~~ ***opinion*** concerning the findings thereof to the Commission and/or the Chief of Police relating thereto.

- D. The IPA shall review all final Investigatory Reports, whether by an Independent Investigator or Internal Affairs, relating to a Bias Incident and may provide an ~~recommendation~~ ***opinion*** concerning the findings thereof to the Commission and/or the Chief of Police relating thereto.
- E. The IPA may review all investigatory reports resulting from any investigation by either an Independent Investigator or Internal Affairs as may be referred to the IPA by the Chief of Police or the Commission. The IPA may provide a report with findings and ~~recommendation~~ ***opinions*** on any such investigatory report to the Commission, the City Manager, the City Council and the Chief of Police.
- F. The IPA shall stay up to date concerning Vallejo Police Department policies and training and shall advise the Commission, the City Manager and the Chief of Police in writing when, in the opinion of the IPA, a change or modification of policy or training is needed. The IPA shall set forth in writing the policy or training that the IPA recommends be added, changed or modified and shall provide an analysis of the reasons they believe the change, modification or addition of policy or training is desirable. If a policy or training does not require a change or modification, the IPA shall so state.
- G. The IPA shall assist the Commission in the preparation of its annual report required in section 18.03.050R.
- H. The IPA may also prepare reports on the IPA's other activities for review by the Commission.
- I. The IPA shall have subpoena authority for records and other relevant material concerning any matter before them. No subpoena shall be issued, however, unless 30-days have elapsed since any such records were requested by the IPA and they have not been provided. Any such subpoena may be enforced in the Solano County Superior Court and the City Attorney or their designee shall take the necessary steps to enforce such a subpoena.

SECTION TWO

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed the Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact than any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION THREE

This Ordinance shall be effective 30 days after passage and adoption but shall not be implemented until completion of any meet and confer process with any affected bargaining unit including, but not limited to the Vallejo Police Officers Association. It is not the intent of this provision to limit the bargaining power of any bargaining unit including the ability to propose amendments to this ordinance.

First read at a regular meeting of the City Council of the City of Vallejo on December 12, 2022 and finally passed and adopted at a regular meeting thereof held on December 20, 2022 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ROBERT MCCONNELL, MAYOR

ATTEST:

DAWN G. ABRAHAMSON, CITY CLERK