

RESOLUTION NUMBER R- 314374DATE OF FINAL PASSAGE OCT 06 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO RESOLVING THE IMPASSE BETWEEN THE
CITY AND THE SAN DIEGO POLICE OFFICERS
ASSOCIATION RELATED TO THE COMMISSION ON
POLICE PRACTICES IMPLEMENTATION ORDINANCE AND
AMENDED INTERIM STANDARD OPERATING
PROCEDURES.

WHEREAS, on November 3, 2020, City of San Diego (City) voters approved Measure B to establish the Commission on Police Practices (Commission), which supersedes the City's Community Review Board on Police Practices (CRB); and

WHEREAS, Measure B amended the San Diego Charter (Charter) to, among other things, add section 41.2; and

WHEREAS, under Charter section 41.2, the Commission is established as an investigatory body of the City, independent of the Mayor and the Police Department; and

WHEREAS, the Commission has certain mandatory duties and discretionary powers, as described in section 41.2, and the City Council (Council) may, by ordinance, mandate additional duties and authorize additional powers for the Commission, consistent with the Charter and applicable federal and state laws; and

WHEREAS, Charter section 41.2 requires the Council to establish, by ordinance, certain matters related to the Commission, including its composition and how the Commission will carry out its Charter-mandated duties, and the Council recognizes that there are several policy determinations that the Council must make to fully implement the Commission; and

WHEREAS, Charter section 41.2 provides that the members of the CRB serving at the time the section takes effect will be interim Commission members until the Council has formally appointed Commission members, in accordance with the ordinance described in the section; and

WHEREAS, the Council recognizes that the City must ensure compliance with the Meyers-Milius-Brown Act (MMBA), California's collective bargaining law that applies to local public agencies like this City, before the Council makes final implementation decisions on matters subject to bargaining related to the implementation of the Commission; and

WHEREAS, the MMBA requires the City to complete the collective bargaining process with its REOs, either to agreement or through impasse procedures, prior to making any decisions to change employment policies or practices that are subject to bargaining, defined as wages, hours, and other terms and conditions of employment. Further, before implementation of the Council's policy determinations that are managerial in nature, as defined by the MMBA, the Council must allow the City's REOs to identify the impacts of these policy determinations that trigger bargaining under the MMBA, and complete any required meet and confer process; and

WHEREAS, by San Diego Resolution R-313501 (May 5, 2021), following a collective bargaining process, the Council approved interim standard operating procedures to be used by the interim Commission until final implementation decisions related to the Commission can be made; and

WHEREAS, the interim Commission is now proposing amendments to the Council-approved interim standard operating procedures, related to the Commission's investigatory duties, to be used until Commission members can be formally appointed and can prepare final standard operating procedures; and

WHEREAS, on April 27, 2022, the Council's Public Safety and Livable Neighborhoods Committee considered the proposed amended interim standard operating procedures and voted to advance the proposed procedures to the Council for consideration; and

WHEREAS, by San Diego Resolution R-314130 (May 31, 2022), the Council directed the City's management team for labor relations to engage in the collective bargaining process required prior to final Council determination of the proposed amended interim standard operating procedures; and

WHEREAS, on June 17, 2022, the City provided notice to its recognized employee organizations (REOs) and opportunity to negotiate the bargainable matters related to the Commission's proposed amended interim standard operating procedures; and

WHEREAS, related to the implementation ordinance required by Charter section 41.2, the Council's Public Safety and Livable Neighborhoods Committee considered policy issues, on June 14, 2021, and January 21, 2022; and

WHEREAS, on February 28, 2022, by San Diego Resolution R-313925 (March 9, 2022), the Council directed the City's management team for labor relations to meet and confer over the bargainable matters in the proposed implementation ordinance for the Commission; and

WHEREAS, on March 7, 2022, the City's management team for labor relations provided notice to the City's REOs and opportunity to negotiate the bargainable matters in the Council's proposed implementation ordinance; and

WHEREAS, the Council has been notified by the City's management team for labor relations that the City's management team for labor relations has resolved all bargainable issues raised by the REOs related to the proposed implementation ordinance and the proposed amended

interim standard operating procedures, except for one issue raised by the San Diego Police Officers Association (POA) that remains in dispute; and

WHEREAS, on April 5, 2022, April 27, 2022, June 20, 2022, and July 26, 2022, the City met with the POA to discuss the proposed implementation ordinance and the proposed amended interim standard operating procedures; and

WHEREAS, on August 11, 2022, the City provided the POA with the City's last, best, and final offer on the two policy documents and requested that the POA provide its position on outstanding issues; and

WHEREAS, on August 18, 2022, the POA notified the City that the POA has not changed its position on outstanding issues; and

WHEREAS, on August 30, 2022, in accordance with Council Policy 300-06, the City declared impasse with the POA over the two disputed issues, specifically the City's proposed prohibition of the family members of law enforcement in San Diego County from serving on the Commission and over a request for the Commission to provide advance notice to officers prior to the Commission's disclosure of records in accordance with the California Public Records Act (CPRA); and

WHEREAS, on September 7, 2022, the POA provided its response to the City's position on the disputed issues; and

WHEREAS, on September 8, 2022, the City and the POA conducted an impasse meeting, in accordance with Council Policy 300-06, but did not resolve the issue related to the proposed prohibition of the family members of law enforcement in San Diego County from serving on the Commission. The POA agreed to defer discussion to a future date, when the Commission's final operating procedures are discussed, the POA's request for advance notice to impacted officers

prior to the Commission's disclosure of personnel records that are legally required to be disclosed under the CPRA; and

WHEREAS, under the MMBA, the Charter, and Council Policy 300-06, (most recently amended by San Diego Resolution R-313698 (September 22, 2021)), including provisions related to the resolution of impasses between the City and its REOs, the Council must determine whether to approve the proposed implementation ordinance for the Commission and the proposed amended interim standard operating procedures; and

WHEREAS, the impasse between the City and the POA is now before the Council for determination; and

WHEREAS, under the MMBA and Council Policy 300-06, the Council must hold a public hearing on the impasse prior to making its determination; and

WHEREAS, the Office of the City Attorney has prepared this resolution based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

BE IT RESOLVED, that, in accordance with the MMBA and Council Policy 300-06, the Council has held a public hearing to receive written and verbal information and testimony from the City's management team for labor relations, representatives of the POA, and members of the public. After hearing and considering the information and testimony, the Council determines to resolve the impasse between the City and the POA, by imposing the City's last, best, and final offer to the POA, dated August 11, 2022, covering the implementation ordinance for the Commission on Police Practices and the amended interim standard operating procedures.

BE IT FURTHER RESOLVED, that the Council requests that the Office of the City Attorney prepare a revised copy of this resolution to conform to the final actions of the Council related to this matter.

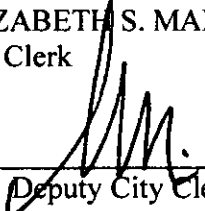
APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Joan F. Dawson
Joan F. Dawson
Senior Deputy City Attorney


JFD:jdf
09/28/2022
10/03/2022 REV.
Or.Dept: Human Resources
Doc. No. 3093694_2

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 03 2022.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 10/5/22
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on OCT 03 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 06 2022.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 314374