

RESOLUTION NUMBER R- 313121

DATE OF FINAL PASSAGE JUN 29 2020

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING AND RATIFYING AN AGREEMENT BETWEEN THE CITY AND THE SAN DIEGO POLICE OFFICERS ASSOCIATION RELATED TO A PROPOSED SAN DIEGO CHARTER AMENDMENT TO DISSOLVE THE COMMUNITY REVIEW BOARD ON POLICE PRACTICES AND ESTABLISH A COMMISSION ON POLICE PRACTICES.

WHEREAS, on June 21, 2019, Andrea St. Julian, on behalf of Women Occupy San Diego, filed with the Office of the City Clerk of the City of San Diego (City), a proposed amendment to the San Diego City Charter (Charter) related to the dissolution of the existing Community Review Board on Police Practices and the establishment of a Commission on Police Practices (Proposal or proposed Charter amendment); and

WHEREAS, the Proposal was submitted to the City in accordance with City Council (Council) Policy 000-21 (Oct. 31, 2017), entitled "Submission of Ballot Proposals," for consideration for the November 2020 election; and

WHEREAS, on July 31, 2019, in accordance with Council Policy 000-21, the Council's Rules Committee considered the Proposal and voted to forward it to the Public Safety and Livable Neighborhoods (PS and LN) Committee for the second committee review and further policy direction; and

WHEREAS, on September 18, 2019, the PS and LN Committee voted to modify some of the language in the Proposal and to forward it to the City Attorney for legal review and analysis and to draft legally appropriate language, and to return the Proposal to the PS and LN Committee for further consideration; and

WHEREAS, on October 23, 2019, the PS and LN Committee voted to forward the Proposal to the Council, to determine if the Council wished to authorize meet and confer related to the proposed Charter amendment, so that it could be considered for the November 2020 election after the meet and confer process concluded; and

WHEREAS, on November 5, 2019, by San Diego Resolution R-312737, the Council voted to direct the City's Management Team for labor negotiations to provide written notice to the City's recognized employee organizations of the Council's desire to place the Proposal on a future ballot for consideration by City voters; and

WHEREAS, the Proposal involves asking City voters whether they wish to amend the Charter, by amending Article V, by repealing Section 43(d), by amending Sections 40 and 41, and by adding a new Section 41.2; and by amending Article VIII, by amending Section 115, all relating to the dissolution of the Community Review Board on Police Practices and the establishment of the Commission on Police Practices; and

WHEREAS, on November 7, 2019, in accordance with the Meyers-Milias-Brown Act (MMBA) and Council Policy 300-06, the City provided notice of the Proposal to the City's six recognized employee organizations: the Deputy City Attorneys Association (DCAA), IAFF Local 145, Local 127 AFCME, the San Diego Municipal Employees Association (MEA), the San Diego Police Officers Association (POA), and Teamsters Local 911. Only DCAA, MEA, and POA requested to meet; and

WHEREAS, on November 26, 2019, the City met with DCAA, MEA, and POA for discussion of the Proposal. DCAA and MEA identified no impacts related to the proposed Charter amendment that they wished to discuss with the City; and

WHEREAS, the City continued discussions with the POA on the substance of the proposed Charter amendment, on February 4, 2020, March 3, 2020, and April 29, 2020; and

WHEREAS, on May 11, 2020, the City declared impasse related to a disagreement with the POA over compliance with the Public Safety Officers Procedural Bill of Rights and California cases interpreting it. The City held an impasse meeting with the POA on May 14, 2020; and

WHEREAS, the City and the POA were able to resolve their differences on the proposed Charter amendment during the impasse process and reached an agreement on May 21, 2020 (Agreement), which is now presented to the Council for determination; and

WHEREAS, under the MMBA and Council Policy 300-06, it is within the discretion of the Council to approve and ratify the negotiated Agreement related to the proposed Charter amendment; and

WHEREAS, by separate action, the Council may consider and determine whether to adopt an ordinance, submitting to the qualified voters of the City for their approval or rejection at the Municipal Special Election, consolidated with the California State General Election to be held in November 2020, or at a later election if the Council so chooses, one measure amending the Charter, by amending Article V, by repealing Section 43(d), by amending Sections 40 and 41, and by adding a new Section 41.2; and by amending Article VIII, by amending Section 115, all relating to the dissolution of the Community Review Board on Police Practices and the establishment of the Commission on Police Practices; and

WHEREAS, the Agreement acknowledges that the Council, within its discretion, may take any and all further actions necessary to place the proposed Charter amendment before City voters at the November 2020 election or at some later election, as determined by the Council; and

WHEREAS, the Agreement does not supersede any provisions of the Memorandum of Understanding between the City and the POA, approved by the Council and binding on the City,

or any other terms and conditions of employment of POA-represented employees, as established by the MMBA and City Council Policy 300-06 and not modified by the Agreement; and

WHEREAS, the Agreement does not waive any rights of the City or the POA to meet and confer over any implementing ordinance that may be required, necessary, or desirable, if the proposed Charter amendment covered by the Agreement is approved by City voters; and

WHEREAS, the City's obligation to engage in bargaining over any implementing ordinance with all of the City's recognized employee organizations, in accordance with the MMBA and City Council Policy 300-06, arises only upon and following City voter approval of the proposed Charter amendment; NOW, THEREFORE,

BE IT RESOLVED that, under the authority of the MMBA and Council Policy 300-06, the Council of the City of San Diego approves and ratifies the Agreement between the City and the POA, on file in the Office of the City Clerk as Document No. RR-313121, related to a proposed Charter amendment to dissolve the Community Review Board on Police Practices and establish a Commission on Police Practices.

BE IT FURTHER RESOLVED that the Council will consider, in a separate Council action, placement of the proposed Charter amendment before the qualified voters of the City for their approval or rejection.

APPROVED: MARA W. ELLIOTT, City Attorney

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

JFD:jvg
06/01/20
Or.Dept: Human Resources
Doc. No.: 2394686_2

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of 06/23/2020.

ELIZABETH S. MALAND
City Clerk

By /s/ Matthew R. Hilario
Deputy City Clerk

Approved: 06/26/20
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on JUN 23 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 29 2020.

(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:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

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

By Connie Patterson, Deputy
for Matt Hilario

Office of the City Clerk, San Diego, California
Resolution Number R- **313121**