

Agenda Report

January 25, 2021

TO: Honorable Mayor and City Council

FROM: Michele Beal Bagneris, City Attorney

SUBJECT: APPROVE TWO ACTIONS RELATING TO COMMUNITY POLICE OVERSIGHT COMMISSION: (A) RESOLUTION ESTABLISHING POLICY FOR APPOINTMENT OF, AND STIPEND FOR, COMMISSIONERS; AND (B) APPROVAL OF MEETING RULES AND REGULATIONS

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the proposed action is not a project subject to the California Environmental Quality Act (CEQA) pursuant to Section 21065 of CEQA and Sections 15060(c)(2), 15060(c)(3), and 15378 of the State CEQA Guidelines and, as such, no environmental document pursuant to CEQA is required; and
2. Adopt a Resolution establishing (a) a policy for the appointment of members to the Community Police Oversight Commission; and (b) a stipend for Commission members; and
3. Approve of rules and regulations for the conduct of business of meetings of the Community Police Oversight Commission.

BACKGROUND:

On October 5, 2020, the City Council adopted an ordinance creating a Community Police Oversight Commission, as well as an Independent Police Auditor. The ordinance created, among other things, Chapter 2.60 of the Municipal Code to establish the Commission. The ordinance requires that City Council, by resolution, "establish a policy for appointment of members to the commission."

On October 19 and November 16, 2020, the City Council considered approaches to establish a policy for appointment of Commission members. As staff discussed in its November 16 Agenda Report, there was no prevailing approach to nominating members to police oversight bodies. Options included lottery from each district (Anaheim), to nomination from a pool of candidates (Berkeley), to appointment by the Mayor and confirmation by the City Council (Long Beach), and a variety of other approaches.

Ultimately, a consensus of the Council indicated a preference to have the Public Safety Committee consider six applicants for nomination for the three community-based organization positions on the Commission.

The ordinance creating the Commission also requires the Council to approve of rules and regulations for the Commission.

This agenda item seeks the City Council's approval of a policy for appointment of Commission members (by resolution), a \$100 per meeting stipend for Commissioners (by resolution), and a set of rules and regulations for Commission meetings. Each are discussed in turn.

1. Policy for Appointment of Members

The Commission consists of 11 members to be appointed by the City Council. All 11 members must be a resident of the City, but Council nominees need not reside in the nominating Councilmember's district.

Each Councilmember, including the Mayor, has one nominee to the Commission, for a total of eight members. Three additional members representing community-based organizations must also be nominated, as well. The Municipal Code is silent as to how the community-based organizations would be nominated. The Municipal Code also states a goal of having at least 50 percent of the filled positions on the Commission be filled by women.

A. Community-Based Nominees (total of three)

At its November 16, 2020 meeting, a consensus of the Council indicated a preference to have the Public Safety Committee consider six applicants for nomination for the three community-based organization positions on the Commission. The resolution provides for Commission staff or the City Manager or designee to publicize the opportunity to community-based organizations, and to refer applicants to the Public Safety Committee. When nominees are referred to the City Council, the Council would then consider them for appointment to the Commission, and may select the nominee or other applicants who were referred to the Public Safety Committee.

B. Councilmember Nominees (one per Councilmember, total of eight)

For the eight Commission positions nominated by Councilmembers and the Mayor, the resolution does not limit the means for nomination. Several Councilmembers did discuss a public application process for nominees, and the Council could revise the resolution to so direct, but the resolution does not presently specify the means for nomination of these eight Commission positions. As proposed, each Councilmember and the Mayor can determine how they will arrive at their nominee. The resolution provides for staggered terms as required by the Municipal Code.

2. Compensation of Commissioners - \$100 Per Meeting

At the November 16, 2020 Council meeting, a consensus of the Council indicated an interest in a \$100 per meeting stipend for Commissioners. The resolution, as proposed, sets the stipend at that figure.

3. Commission Rules & Regulations

The Council is also asked to approve of rules and regulations for the conduct of the Commission's meetings. No resolution approving of these rules is required, it is simply Council action approving of the rules that is needed.

One provision we wish to highlight is that it is proposed that the Commission cannot place an item on its agenda, such as a specific incident, if the item could compromise a pending criminal or administrative (personnel) investigation by, unless so directed by the City Council. Examples include investigations such as those by the Los Angeles County District Attorney's office (criminal investigation) or PPD Internal Affairs staff (personnel investigation).

4. Status of Related Police Oversight Matters

The City Attorney is in the process of issuing a Request for Proposals for Independent Police Auditor, which will be a contractor (not employee) position within the City Attorney's office.

Though not directly related to this agenda item, the City Manager's office recently engaged Kathryn Olson of Change Integration Consulting, LLC to prepare a detailed memo entitled Training for Police Oversight Commissions, which is attached to this Agenda Report. The ordinance creating the Commission requires "at least 30 hours of training in relevant subject matters facilitated by the police department." The City Attorney's Office will also assist in providing training. Additionally, we wish to highlight in Ms. Olson's memo that she mentions "[b]efore addressing substantive police issues, focus on procedural matters, including: the role of the Commission, fundamentals of successful meetings, confidentiality and privacy issues, and how the Commission and Independent Auditor will interact with each other, the Pasadena Police Department, City Council, the City Manager's Office, and the public."

ENVIRONMENTAL ANALYSIS:

The action proposed herein is not a project subject to the California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060(c)(2), 15060(c)(3), and 15378. The appointment of members to the Community Police Oversight Commission and approval of rules and regulations for Commission are an organizational and administrative actions that would not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Therefore, the proposed action is not a "project"


subject to CEQA, as defined in Section 21065 of CEQA and Section 15378 of the State CEQA Guidelines. Since the action is not a project subject to CEQA, no environmental document is required.

FISCAL IMPACT:

The fiscal impact of this action, if the Council approves the \$100 per meeting stipend, and assuming a full 11-member Commission that holds 12 meetings per year, would be approximately \$13,200 per year.

The cost of Commission staff, and the Independent Police Auditor, when appointed, will depend on the staffing desired, the Auditor's workplan, extent of outside legal assistance needed, and the nature of Police Department participation in personnel and operational matters reviewed by the Commission. At the time of first reading of the ordinance establishing the Commission in September 2020, staff estimated the fiscal impact of the ordinance, in total, could range from approximately \$500,000 to \$1 million annually; a better estimate can be arrived at as the above-referenced factors are established.

Respectfully submitted,


MICHELE BEAL BAGNERIS
City Attorney

Prepared by:


JAVAN N. RAD
Chief Assistant City Attorney

Attachment 1 – Pasadena Municipal Code, Chapter 2.60, Community Police Oversight Commission Ordinance

Attachment 2 – Resolution Setting Forth Policy of Appointment of Members to the Community Police Oversight Commission

Attachment 3 – Rules and Regulations for the Conduct of Business of Community Police Oversight Commission Meetings

Attachment 4 – Training for Police Oversight Commissions, by Kathryn Olson, Change Integration Consulting, LLC, December 18, 2020