



King County

**Metropolitan King County Council
Committee of the Whole**

Staff Report

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| Agenda item No: | 13 | Date: | December 8, 2008 |
| Ordinance No: | 2008-0634 | Prepared by: | Mike Alvine |

SUBJECT

A MOTION stating the council's intent to implement those elements of Ordinance 15611 that relate to civilian oversight of King County law enforcement and that are not mandatory subjects of collective bargaining.

SUMMARY

The proposed motion states the Council's intent to implement those elements of Ordinance 15611 that are not mandatory subjects of collective bargaining. Staff analysis and consultation with the Prosecuting Attorney's Office indicate that the primary element that could be implemented without bargaining is the establishment of a citizen law enforcement oversight committee as outlined in the ordinance.

Analysis

Staff analysis of the proposed King County Police Officers Guild (the Guild) collective bargaining agreement (CBA) found that nearly all elements of Ordinance 15611 had been addressed in some fashion in the agreement. The CBA was silent on a citizen law enforcement oversight committee. Discussions with PAO staff indicate that the Council could establish such a citizen oversight committee without bargaining it with the Guild, so long as its role was limited to that defined in the Ordinance. The Prosecuting Attorney's Office would recommend continued involvement of their office if the Council were to move forward with such legislation.

Amendments

At the sponsor's request, staff has drafted a striking amendment and title amendment to the motion. One reason for the proposed amendments is that rather than stating the Council's intent to take some action in the future, the amendments turn the motion into a Council action immediately.

The striking amendment takes the labor policy that is the next item on the Committees' agenda, and turns it into a motion. One reason for taking this approach is that the

County's labor policies are approved at the Committee level and are not in the form of regular legislation such as motions or ordinances. As a result, County labor policies are not readily accessible to the public and the results of this policymaking process are not particularly transparent. By adopting the labor policy as a motion, it will be readily available to the public through the Internet and the process will be more transparent.

As to the content of the striking amendment/labor policy itself, it incorporates the policy direction and operating procedures outlined in Ordinance 15611. If the striking and title amendments are accepted by the Committee, there would be no further need to consider the labor policy as the next item on today's agenda.

ATTACHMENTS

1. Proposed Motion 2008-0634
2. Striking Amendment to Proposed Motion 2008-0634
3. Title Amendment to Proposed Motion 2008-0634

INVITED

1. Susan Slonecker, Senior Deputy Prosecuting Attorney, King County



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

December 8, 2008

Motion

Proposed No. 2008-0634.1

Sponsors Patterson

1 A MOTION stating the council's intent to implement those
 2 elements of Ordinance 15611 that are not mandatory
 3 subjects of collective bargaining that relate to civilian
 4 oversight of King County law enforcement.

5
 6 WHEREAS, on October 9, 2006, the King County council adopted Ordinance
 7 15611 relating to civilian oversight of county law enforcement, and

8 WHEREAS, the council recognized that some elements of Ordinance 15611 were
 9 mandatory subjects of bargaining with affected labor organizations representing
 10 employees in the sheriff's office, and

11 WHEREAS, the executive subsequently bargained in good faith those mandatory
 12 subjects of bargaining with the affected labor organizations, and

13 WHEREAS, the collective bargaining agreement that, in part, addresses civilian
 14 oversight of county law enforcement has been transmitted to the council for action and
 15 the agreement does not address some nonmandatory bargaining subjects;

16 NOW, THEREFORE, BE IT MOVED by the Council of King County:

Motion

17 The council hereby states its intent to implement those elements of Ordinance
18 15611 that are not mandatory subjects of bargaining.

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KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

ATTEST:

Attachments None

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December 8, 2008

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Sponsor: Patterson

Proposed No.: 2008-0634

1 **STRIKING AMENDMENT TO PROPOSED MOTION 2008-0634, VERSION 1**

2 On page 1, beginning on line 6, strike everything through page 2, line 18, and insert:

3 "WHEREAS, the metropolitan King County council is charged with the
4 responsibility of providing oversight to all county agencies and departments, including
5 the sheriff's office, and

6 WHEREAS, the council exercises its responsibilities for providing
7 oversight of county agencies and departments in a variety of ways, including the
8 establishment of offices within the legislative branch to provide specialized
9 oversight services. The county auditor and ombudsman are just two of the offices
10 that facilitate independent county oversight, and

11 WHEREAS, the sheriff's office has systems for addressing citizen
12 complaints and allegations of employee misconduct, but unlike many other
13 jurisdictions, the county has no independent civilian oversight agency dedicated
14 to the oversight of law enforcement. Most large jurisdictions, and many small
15 ones, have implemented a variety of models for civilian oversight of alleged law
16 enforcement officer misconduct. For example, the city of Seattle has established

17 an office of professional accountability to monitor misconduct allegations within
18 the Seattle police department, and

19 WHEREAS, recognizing the need to bolster public confidence and to
20 ensure proper oversight is exercised, the council began deliberations on
21 legislation that would implement civilian oversight of the sheriff's office. The
22 council's law, justice and human services committee held ten separate hearings on
23 the issues associated with civilian oversight of law enforcement. The
24 councilmembers heard testimony from representatives of the sheriff's internal
25 investigations unit, the ombudsman/office of citizen complaints, Seattle police
26 department's office of professional accountability, and reviewed materials
27 detailing models for civilian oversight and evaluated the types and effectiveness
28 of existing systems for police agency oversight. Councilmembers also visited
29 jurisdictions that have established successful systems for civilian oversight, and

30 WHEREAS, in a parallel effort, the sheriff, with input from the county
31 council, executive, and prosecutor, established a volunteer ten-member "blue
32 ribbon panel" of citizen experts to make recommendations concerning needed
33 improvements for the sheriff's misconduct/discipline policies, procedures, and
34 practices. The panel reported to the law, justice and human services committee
35 and to the committee of the whole. The panel ended its deliberations with a final
36 report that made recommendations in six major areas including the need for
37 civilian oversight. The council adopted the panel's final report as Motion 12337,
38 and,

39 WHEREAS, as a result of the law, justice and human services committee's six-
40 month long efforts, visits to other jurisdictions and the blue ribbon panel's
41 recommendations, the council recognizes that a vigorous and effective internal
42 investigation process, combined with appropriate civilian monitoring and oversight, is
43 essential for effective law enforcement, and

44 WHEREAS, the council seeks through this labor policy motion, to establish a
45 system of civilian oversight that will monitor ongoing investigations of misconduct, help
46 resolve cases, implement methods for increasing the level of public trust and
47 transparency and identify systemic issues within sheriff's office and offer
48 recommendations for reform;

49 NOW, THEREFORE, BE IT MOVED by the Council of King County:

50 A. It shall be a labor policy of King County that the executive shall engage in
51 good faith bargaining with labor organizations that represent sheriff's office employees to
52 establish or enhance an office of civilian oversight of law enforcement ("the office") with
53 the characteristics and authorities identified herein, to the extent that bargaining is legally
54 required.

55 B. The office shall have the following characteristics:

56 1. The office shall be an investigative agency as that term is used in RCW
57 42.56.240;

58 2. The office's roles, responsibilities and authorities are described in this
59 motion; and

60 3. Decisions about the functions and implementation of the office should be the
61 result of a collaborative process that involves, at a minimum, the executive, the council,

62 the prosecuting attorney, the sheriff and the labor organizations that represent sheriff's
63 office employees. It is the intent of this policy that the office shall be colocated with the
64 sheriff's investigative staff in order to perform the duties described in this policy.

65 C. Administration of the office shall occur as follows:

66 1. The director of the office shall be appointed by the executive and confirmed by the
67 council. The executive shall conduct a nationwide search for the director to identify
68 candidates with the following characteristics:

69 a. A reputation for integrity and professionalism, as well as the ability to
70 maintain a high standard of integrity in the office;

71 b. An understanding of and a commitment to the responsibilities of the office;

72 c. Demonstrated leadership and a history of effective management and
73 administration;

74 d. The ability to gain the trust and respect of sheriff's office employees;

75 e. The ability to work effectively with the executive, council, prosecuting
76 attorney and sheriff, as well as other public agencies, labor organizations, private
77 organizations and citizens;

78 f. An openness to innovation and new ideas;

79 g. Sensitivity to and knowledge of the particular needs and concerns of
80 minorities and women in a law enforcement setting;

81 h. The ability to work effectively under pressure with controversial issues and
82 the ability to effectively communicate with diverse groups;

83 i. No history of employment in the sheriff's office, and

84 j. The selected director must pass a complete criminal background check and
85 polygraph before confirmation.

86 2. The director shall serve a term of four years, unless removed for cause at any
87 time by motion approved by a majority of the council, and shall be considered by the
88 county council for reappointment at the end of each term of office.

89 3. The director, with consultation of the council, may employ investigators, staff
90 assistants, clerical personnel or use the services of consultants as may be necessary for
91 conduct of the office's duties. These employees and contractors must pass a complete
92 criminal background check and polygraph examination before employment.

93 D. In order to ensure the integrity of the sheriff's complaint and investigations
94 processes and to ensure resolution of citizen and employee initiated complaints, the
95 office of law enforcement oversight shall:

96 1. Shall receive complaints from any source concerning the sheriff's office, track
97 complaints received and transmit the complaints to the internal investigations unit;

98 2. Shall monitor, check for completeness and require additional investigation as
99 necessary of all internal investigations unit activities, including administrative and
100 employee-initiated complaints and allegations investigations;

101 3. May monitor, check for completeness, evaluate the resolution of and require
102 additional investigation as necessary of all other complaints and allegations including
103 those assigned by the internal investigations unit to supervisors for investigation and
104 resolution; and

105 4. May review and make recommendations to the internal investigations unit
106 about the screening and classification of complaints, as well as make recommendations to

107 the sheriff about screening and classification policies and procedures. In addition, may
108 monitor the complaint intake process and evaluate decisions whether a complaint requires
109 initiation of a formal internal investigation or assignment to supervisors for investigation
110 and resolution.

111 E. The office, in order to ensure transparency to the sheriff's discipline and
112 complaint handling processes and guarantee adequate information is made available to
113 maintain public confidence, shall also:

114 1.. Monitor the investigation and resolution of all complaints to ensure they are
115 handled in a timely fashion and complainants are notified of the final disposition of their
116 complaints;

117 2. Coordinate with the sheriff's office in the development of all technology
118 applications for tracking and information sharing;

119 3. Issue annual reports, beginning March 1, 2010, which shall be transmitted to
120 the council. To facilitate availability of the reports to the public, the office shall also
121 retain paper copies of the reports and post the reports on the Internet. The office shall
122 provide in the reports:

123 a. A statistical analysis of complaints, investigative findings and final
124 discipline for sustained complaints. The reports should include information about the
125 number and type of misconduct cases where the director disagreed with the sheriff on
126 either findings or discipline decisions; and

127 b. Make recommendations for action by the sheriff on needed improvements in
128 policies, procedures and practices stemming from analyses that look beyond the
129 individual cases of misconduct to identify systemic problems within the sheriff's office.

130 In addition to investigational materials available to the office, the director shall make use
131 of all other available materials, including internal and external audits and reviews of the
132 sheriff's office and critical incident reviews, in developing and making recommendations
133 for improvements.

134 F. In order to oversee misconduct investigations, the office shall have:

135 1. Unimpeded and real-time access to unredacted case information and all
136 information related to ongoing investigation files, treating all documents and information
137 regarding specific investigations or officers as required by law. The only exception to
138 this subsection is files related to ongoing investigations of deputies or other sheriff's staff
139 who are under criminal investigation. Upon completion of the criminal investigation and
140 resolution of the any criminal matter, the office shall review the case files in order to
141 determine whether a disciplinary investigation should be initiated;

142 2. The ability to respond to the scene of critical incidents. At a critical incident
143 scene, the investigator or investigators from the office shall only be an observer or
144 observers. They shall not conduct or interfere with any investigation, and they shall
145 coordinate their presence and activities with the on-scene commander from the sheriff's
146 office. The investigators' duties to monitor, check for completeness and require
147 additional investigation as necessary apply only if a formal complaint investigation is
148 conducted by the internal investigations unit;

149 3. Approval for completeness of complaint investigations before a finding can
150 be issued. The internal investigations unit must submit all completed misconduct
151 investigations to the office, with an amount of time specified for the approval or direction

152 for further investigation. If the unit disagrees with the office, the sheriff shall act as
153 arbiter and makes the final decision or decisions;

154 4. The option to consult with command staff or the appropriate supervisor as to
155 the command staff's or supervisor's own review and recommendations regarding a
156 particular investigation, including proposed discipline; and

157 5. The option to submit recommendations regarding findings and discipline
158 directly to the sheriff before a final decision on misconduct cases.

159 G. The office, in collaboration with the sheriff's office, shall establish and
160 administer a voluntary officer-citizen mediation program. The program shall:

161 1. Provide an alternative method to resolve citizen complaints by allowing
162 willing citizens and officers to meet under the guidance of a professional mediator to
163 discuss and resolve their differences;

164 2. The office and the sheriff's office shall establish standards and guidelines for
165 determining when a particular complaint may be referred to mediation. Serious
166 complaints are excluded from the use of mediation to resolve allegations.

167 H. To the extent that the following may be a subject of mandatory bargaining the
168 executive is further directed to engage in good faith bargaining with represented
169 employees to propose to add to K.C.C. chapter 2.36 a new section to substantially read as
170 follows:

171 1. Using the process prescribed in K.C.C. 2.28.0015, the executive shall
172 appoint, subject to council confirmation, a citizens' committee on independent oversight
173 to advise the director of the office of independent oversight, which should be created
174 under K.C.C. Title 2 in accordance with this labor policy, on policies, procedures and

175 practices relating to officer misconduct, discipline and other responsibilities of the
176 director of the office of law enforcement oversight.

177 2. The committee shall include eleven members of the public who represent the
178 geographic, ethnic and economic diversity of the sheriff's service area. The committee
179 shall consist of three members representing cities that contract with the sheriff for law
180 enforcement services, four of the members shall represent unincorporated King County
181 and the four members shall be selected at-large. The committee members shall be
182 appointed for three-year terms, subject to reappointment for additional terms.

183 3. The committee shall make recommendations to the director of the office
184 regarding:

185 a. misconduct and discipline policies, procedures and practices of the sheriff's
186 office;

187 b. policies, procedures and practices related to other responsibilities of the
188 director of the office; and

189 c. public perceptions of the sheriff, the sheriff's deputies and their roles and
190 functions in the community.

191 4. The committee shall also serve as a means for the director of the office to
192 communicate with King County's diverse communities. The communication should
193 increase accountability and public understanding of the misconduct and discipline
194 policies, procedures and practices of the sheriff's office and other issues related to the
195 director of the office's responsibilities.

196 5. The committee shall not review or advise the director on individual
197 complaints, investigations or disciplinary actions.

198 I. To the extent that the following may be a subject of mandatory bargaining, the
199 executive is further directed to engage in good faith bargaining with represented
200 employees to propose to add to K.C.C. chapter 2.20 a new section to substantially read as
201 follows:

202 1. The auditor shall establish a permanent ongoing law enforcement audit
203 process.

204 2. The auditor shall acquire an outside law enforcement expert to conduct an
205 initial audit of the sheriff's office internal investigation operations and practices and
206 subsequently thereafter provide for periodic review of the sheriff's office. These reviews
207 should include at a minimum an annual written report to the council.

208 3. The auditor shall assess and review reports and recommendations from the
209 office of law enforcement oversight that provide council-directed oversight of the
210 sheriff's office internal investigation unit. The auditor shall also review the effectiveness
211 of the office of law enforcement oversight and make recommendations for reform when
212 necessary.

213 4. The sheriff's office shall send any audits and reports produced under the
214 sheriff's authority on investigation and complaint operations and performance to the King
215 County auditor's office. The reports shall be transmitted in a timely manner. The county
216 auditor shall review and consider the findings and recommendations of, and the sheriff's
217 responses to, these reports when planning the auditor's annual work program for the
218 review of the council, and shall conduct audits of internal investigation and complaint
219 resolution operations as mandated in the auditor's annual work program. The auditor's

220 independent authority to audit the sheriff's office shall not be replaced or otherwise
221 affected by the creation of any audit or similar function within the sheriff's office.

222 5. To accomplish the purposes of this section, the auditor shall either hire
223 qualified personnel with expertise in law enforcement oversight or contract for
224 independent consulting services with appropriate expertise, or both.

225 J. Finally, it is the intent of this labor policy that the executive shall provide to the
226 council monthly reports on the progress in the selection process for a director of the Office
227 until a director of the office of independent oversight is confirmed. After the director is
228 confirmed, and until March 1, 2010, the director shall provide to the council monthly
229 reports on the status of establishing the activities of the office, including the status of
230 development of complaint receipt, tracking and investigation procedures and processes, the
231 identification of needed data tracking systems or support, systems for ensuring the
232 confidentiality of investigatory information and any recommendations for further
233 legislation needed by the office to perform its duties."

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235 **EFFECT: The striking amendment embodies the key policy direction and operating**
236 **procedures provided in Ordinance 15611 as a labor policy.**

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December 8, 2008

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Sponsor: Patterson

Proposed No.: 2008-0634

1 **TITLE AMENDMENT TO PROPOSED MOTION 2008-0634, VERSION 1**

2 On page 1, strike lines 1 through 4, and insert:

3 "A MOTION establishing county labor policy related to
4 civilian oversight of King County law enforcement."

5

6 **EFFECT: Makes the title conform to the body of the striking amendment.**

