

MINUTES

Eugene Police Auditor Ordinance Review Committee
McNutt Room – Eugene City Hall
777 Pearl Street

January 22, 2009
5 p.m.

PRESENT: Tim Laue, Chair; John Ahlen, Vice Chair; Kitty Piercy, Alan Zelenka, Dawn Reynolds, Chief Pete Kerns, Norton Cabell, Rick Brissenden, Ron Chase, Angie Sifuentez, Claire Syrett, members; Sarah Medary, Assistant City Manager; Jerome Lidz, City Attorney; Ellen Teninty, Facilitator.

ABSENT: Chris Pryor, Joe Alsup, members.

Introduction and Public Forum

Welcome

- **Review of Agenda and Materials**
- **Minutes Approval**
- **Approve Committee Guidelines**

Mr. Laue called the meeting of the Police Auditor Ordinance Review Committee (PAORC) to order and welcomed those present.

Ms. Medary asked that approval of committee guidelines be postponed to the next meeting as revised language had not yet been provided to committee members. There were no objections.

Ms. Medary said the committee had been provided with a copy of the January 19, 2009, letter from the Eugene Police Employees' Association (EPEA) announcing their withdrawal from the committee and a copy of City Manager Jon Ruiz's January 22 response. Members also received a document summarizing public input to date along with a draft proposed schedule and outcomes for committee activities.

Mr. Norton, seconded by Ms. Syrett, moved to approve the January 5, 2009, meeting minutes as corrected at the January 13, 2009, committee meeting. The corrected minutes were approved without objection.

Mr. Laue said approval of the January 13, 2009, minutes would occur at the next meeting and the committee could decide at that time how it wished to handle requests from the public for minutes corrections.

Public Forum

Mr. Laue reviewed the purpose of the committee and the guidelines the committee had agreed upon for public input. He reiterated the committee's intent to review all testimony, written and otherwise.

Carol Berg- Caldwell stated that a panel discussion at a recent meeting of the Citizens for Public Accountability included Rick Brissenden, Dawn Reynolds, Juan Carlos Valle, Bonny Bettman, Tim Lewis and

herself. She said the audience was very engaged and shared thoughtful concerns, including frustration at the continued resistance to strengthened, transparent police external review. She said people were hopeful that PAORC recommendations might result in the City Council adopting the necessary steps to fully implement external police review. She said there was a growing movement to create external review for federal law enforcement. She said many people were watching PAORC's activities and would appeal to the council if final recommendations failed to reflect the will of the voters.

Deb Frisch distributed materials from Lane County Circuit Court related to a January 13, 2009, article in The Register Guard about bomb threats at local schools. She said the juveniles involved had not been identified in the article, although the charges were listed. She objected to the court's disposition of the cases and characterized the juveniles involved as "terrorists." She also provided copies of the Marist High School boys' football rosters for 2007-08 and 2008-09. She felt the "terrorists" were being "under-prosecuted" because relatives of Police Chief Pete Kerns attended Marist.

Mr. Zelenka arrived at 5:10 p.m.

Ruth Duemler stated that many people were concerned that formation of the PAORC would weaken what voters expected when they voted for a police auditor. She questioned why one of the provisions to be considered by PAORC indicated the auditor would only be informed of the status of an investigation instead of being allowed to actively monitor and participate in the investigation. She felt that greatly reduced the auditor's power. She said provisions only specified the auditor would receive a case file, but not when; that would be decided by the Eugene Police Department (EPD). She said the auditor should have access to a case file as soon as a complaint was made. She hoped the committee would not support those provisions.

Zachary Vishanoff indicated he was attempting to have a binder established at the Mayor's office that would include copies of all relevant materials related to establishing the police auditor function and to the proceedings of the PAORC, such as agenda materials and minutes. He said that would make the information accessible to those who did not have computer and Internet access. He hoped there would be sufficient advance notice of a public hearing on the PAORC's recommendations to allow the community to fully participate. He said it would be in the best interests of the community and EPD to take Tasers off the streets and urged the committee to declare an emergency and take that action.

Paul Prenskey addressed the resistance of those in the police community to full transparency. He said a new national era established transparency and accountability as the benchmarks for all federal agencies. He cautioned those in authority to yield to the wave of change and said if that resulted in removal of "bad apples" and bad policies, civil opponents would become allies and support increased budgets for new hires, better training, better compensation and peace between the police and the community.

18 Item Rating Process

Ms. Teninty reviewed the proposed schedule and outcomes for completion of the committee's work, with the objective of making recommendations for the council's consideration on March 11, 2009. She noted that amendments #2, #3, #5, #6, #8 and #9 had been discussed and referred to the City Attorney for language modifications. Those modifications would be sent back to the committee for its consideration. She said the committee would publish its draft recommendations and hold a public forum on February 19 to receive input from the community; any changes as a result of input could be made at the February 26 meeting and final recommendations forwarded to the council. She said the council would then hold a public hearing to gather additional input.

Ms. Medary said that there had been a number of suggestions from members of the public about information and materials that should be provided to the committee. She asked if the committee wanted her to simply provide all of the suggested materials or give her direction on specific items in which they might be interested.

Ms. Piercy said that suggestions should be considered at by the committee, which would indicate as a group what materials they wanted Ms. Medary to provide.

Ms. Syrett said that materials such as those suggested by Bonny Bettman could be provided if most committee members indicated informally that they were interested. She did not think a formal vote on the matter was necessary.

Mr. Laue agreed that he, as chair, could get a sense of whether the committee was interested in receiving particular documents. He also noted he had in his files most of the items suggested by Ms. Bettman and could make those available.

Ms. Syrett asked if there was a place on the agenda where committee members could raise issues or make comments.

Because of the limited time available during meetings, Mr. Laue suggested that if there was something a member wished to bring to the committee's attention it should be done electronically. Ms. Teninty added that any ideas that came forward during the committee's work could be placed in a "parking lot" and disposition determined when work on the 18 amendments on the list had been completed.

Discussion on Items 12, 11, 10 and 7

Ms. Teninty asked the committee to consider amendment #12:

"Update Section 2.456(2)(c)(d) for consistency with the Charter."

Chief Kerns and Mr. Cabell indicated they were unclear about the legal implications of the amendment.

Mr. Zelenka remarked that the City Attorney had advised the council that no changes to the ordinance were required to be consistent; the Charter amendment had only changed the Charter language from "may" to "shall."

Ms. Piercy asked if there was other language in the Charter amendment that might require changes to the ordinance. Mr. Lidz said the only amendment to the Charter voted upon last fall was to change "may" to "shall" in several places in the original Charter amendment passed in 2005. He said the purpose was to prevent civilian oversight from being subject to political whims by a future council and assure there was oversight as described in the Charter. He saw no inconsistency between the Charter and the ordinance, although there was nothing to prevent amendments to the ordinance as long as the amendments were not inconsistent with the Charter.

Ms. Reynolds said the section of the ordinance referred to in the proposed amendment was closely linked to other issues the committee would be considering, such as concurrency. She said the difficulty was that Section 2.456(2)(c) stated an administrative investigation, when an officer had also been accused of criminal conduct, should begin when the criminal investigation was over or within 60 days, whichever was first. She said the problem implementing the ordinance occurred when former Police Chief Lehner began suspending all cases in which a complainant had been charged with a criminal offense or there was a witness with a criminal charge. She said a long lag period prevented a thorough, timely and fair investigation. She suggested deferring amendment #12 until after the committee had discussed #4, which related to concurrency.

Mr. Laue asked if the City Attorney had recommended different Charter amendment language than that adopted by the council. Mr. Lidz replied that there were several iterations.

Mr. Laue said if any of the iterations were in writing he wanted them made available to the committee.

In response to a question from Chief Kerns, Mr. Lidz said the 2005 Charter amendment authorized the council to give the Police Auditor certain powers; the council exercised that power by adopting the ordinance that was the subject of PAORC's deliberations. He said the question was whether the council gave the auditor less than all of the powers the Charter amendment authorized. Changing the Charter language from "may" to "shall" meant the council was obligated to do those things set forth in the Charter and the ordinance had to reflect that. He commented that part of the problem was that ordinance language was not entirely clear as pointed out by Ms. Reynolds. He suggested the committee approach the issue from the perspective of how the process should work instead of what the Charter required, specifically how the auditor should be involved in the administrative investigation when there was a parallel criminal investigation. That avoided the legal question of whether the Charter amendment necessitated amendment of the ordinance.

Ms. Reynolds said she and Chief Kerns had developed a memorandum of understanding (MOU) to bridge the interim period until the question had been resolved. She said the current ordinance language was clumsy and allowed for misinterpretation. It was important to distinguish between a situation in which a police officer was facing criminal charges and one in which a civilian was facing criminal charges. She said from her perspective the only person who should be able to suspend an investigation when there was a civilian who had been criminally charged was the civilian who raised a Fifth Amendment right. She said the rest of the investigation could and should continue in order to be timely.

Mr. Zelenka suggested leaving amendment #12 until work on the other amendments had been completed, at which point the committee could then determine if there were any inconsistencies that had to be addressed.

Ms. Teninty determined that there were no objections to Mr. Zelenka's suggestion. She asked the committee to consider amendment #10:

"The definition for "police employee" shall include the Police Chief by adding "including the Chief who answers to the City Manager."

Mr. Brissenden supported the amendment because much of the community did not distinguish the Police Chief from other police employees and believed no one should be above the law, including the chief. He disagreed with the argument that such a change would subject every decision made by the chief to a complaint as complaints filed with the auditor related to misconduct, not to administrative decisions. He understood there were difficulties with those types of complaints being investigated as IA officers were not supposed to investigate superior officers, but the same thing could be said about captains and lieutenants; those officers were also subject to the system and only the chief was not. He did not feel the chief should be exempt as the public expected oversight of the entire department.

Mr. Zelenka agreed that a mechanism was needed to deal with complaints against the chief, but there needed to be a distinction between the administrative functions of the chief and misconduct issues. He said complaints about administrative functions, such as budgeting, should be addressed to the City Manager; a process for filing misconduct complaints needed to be developed.

Mr. Chase said there had already been an example of a chief sabotaging the system and there should be a mechanism in place to deal with those types of issues; the Police Auditor's office seemed the logical place.

Mr. Laue disagreed with the assertion there was no mechanism in place. He said that Section 16 of the Charter precluded the council from involving itself in personnel matters, but the Charter did vest all power in the council and the council could discuss any subject it wished to in public session. He felt the City Council was the appropriate place to lodge a complaint against the Police Chief and the council was the authority above the auditor.

Ms. Reynolds used the example of widespread corruption within a police department in which the chief was complicit. In that instance it was appropriate for an outside authority to conduct the investigation, but the Police Auditor's office could be the logical place to file the allegation and instigate the investigation.

Mr. Zelenka said it was difficult not to regard the Police Chief as a police officer as the chief did perform the duties of an officer on occasion and could engage in misconduct related to police procedures. He said the problem with dealing with complaints against the chief through the system covering other officers was that the chief was also a senior executive with administrative functions. Concerns related to administrative functions should be addressed to the City Manager; misconduct related to police duties should go through the Police Auditor system.

Mr. Ahlen expressed serious reservations about two senior executive level managers regulating each other. He pointed out that the oversight model as designed had the chief making final adjudication decisions and it would not be appropriate to have a case about the chief adjudicated by the chief, it would have to be the City Manager. He said the current system did allow for that oversight of misconduct by a senior executive. He did not think the police chief should be subject to the Police Auditor system.

Mr. Lidz said it would be difficult to draft language that distinguished between misconduct and administrative functions. He said an instance in which the chief was alleged to have used excessive force fit neatly into the oversight model, but the instance that prompted the proposed amendments involved the former chief's decision to postpone an internal investigation and that basically was a legal dispute over the meaning of the oversight ordinance. He questioned putting a dispute over the meaning of the ordinance into the oversight system. He said there were other venues for resolving such a legal dispute, including the City Manager and the courts.

Ms. Syrett shared some of Mr. Ahlen's concern about two executives conducting oversight of each other. She preferred to have the Police Auditor be the place where people made complaints against the chief, with a different process established for investigation and adjudication.

Mr. Brissenden said what was missing was a mechanism that identified where complaints were to be lodged and requirements for how an investigation was to proceed.

Mr. Laue remarked that there was a significant difference between misconduct that was a violation of policy and misconduct that was a criminal activity, typically a felony. He said an allegation of criminal misconduct on the part of the chief of police should be the subject of an outside authority investigation and referring that complaint to the Police Auditor was not appropriate.

Mr. Chase agreed there should be a different mechanism for dealing with complaints against the chief. He commented that the oversight system existed because of problems that occurred over a number of years with no action from former police chiefs and no accountability. He did not want to revert to that system and the committee had a responsibility to find a different way to deal with complaints involving the chief. He agreed with recommendations that complaints be filed with the auditor and procedures developed to deal with them from that point.

Ms. Piercy reminded the committee that the auditor was directly accountable to the City Council and was not an executive under the City Manager.

Mr. Cabell pointed out that the “secret case” that prompted the amendments could easily have been overlooked and no one would have known about it. He said once it was discovered it resulted in the issue being brought to the public’s attention, but there should be a system in place that allowed the Police Chief to be called to account.

Mr. Zelenka said the former chief’s legal interpretation of the ordinance was an administrative issue, not misconduct and typically the City Manager would adjudicate complaints against the Police Chief. He said the question was the auditor’s role and when the chief was functioning as a police officer, he or she should be subject to the Police Auditor oversight system. He agreed there should be a different mechanism and just classifying the chief as a police employee was not sufficient. He recommended a new section in the ordinance that included three elements for Police Chief oversight:

- A distinction between administrative functions and police officer functions and complaints related to each function, including guidelines for making that distinction. The distinction should be made by the City Manager in consultation with the Police Auditor.
- Adjudication of a misconduct complaint by the City Manager
- Complaint intake, classification, investigation and recommendation to the City Manager for adjudication

Ms. Reynolds remarked that it was appropriate for the auditor to classify the complaint as that was one of the current functions of the office. She said in some instances the auditor’s office determined it did not have jurisdiction. She said another important function of the auditor was monitoring. She said an allegation of criminal misconduct could only be investigated by the Department of Justice, but a mechanism for investigation of allegations of violation of police procedures or the ordinance should be established.

Mr. Brissenden suggested a process that would have complaints against the chief filed and classified by the Police Auditor and if the auditor felt an investigation was warranted that would be reported to the City Manager and City Council. The City Manager would be authorized to direct the auditor to initiate an investigation with an external investigator and the auditor would prepare a report to the City Manager, who would make adjudication and discipline decisions. He said that process would apply to allegations of misconduct that did not rise to the level of a criminal act; those would have to be investigated by the Department of Justice.

Chief Kerns observed that under the current system anyone could file a complaint with the Police Auditor about any City employee and the auditor referred complaints to the proper authority; currently complaints about the Police Chief could be made to the City Manager. He was concerned with changing the City Manager’s job with respect to supervising executives. He said the council vested that authority in the City Manager through the Charter and the manager should retain all of that authority, including conducting the investigation and determining whether or not the chief engaged in misconduct.

Mr. Ahlen commented that most of the elements being discussed were already in place. He was concerned that the committee was straying from consideration of the language proposed in amendment #10 and focusing instead on trying to determine the intent. He said establishing a different process would require substantive changes and a new mechanism, which was very different from the committee’s original charge. He suggested that new ideas should be placed in the “parking lot” and cautioned the committee about adding more work to the tasks that had to be completed by early March.

Mr. Laue asked about the legal implication of identifying the chief of police as a police employee in the ordinance. Mr. Lidz said there were subtle Charter implications. He said ordinance language always referred to positions like Public Works Director or City Engineer as “the person named by the City Manager as...” because the City Manager had the authority to abolish and create positions. He said for example the manager could

eliminate the position of Police Chief and create a position of Public Safety Director; nothing in the Charter required the position of Police Chief to exist. He said that was a concern with the language of #10 as proposed.

Mr. Laue remarked that he had no problem with complaints against the Police Chief being routed through and classified by the auditor, but the mechanism beyond that should be developed by the City Council, City Manager and Police Auditor. He said the ordinance could be revised to reflect that complaints against the chief would go the auditor's office for classification and routing like other complaints and then be referred to the City Manager for investigation. He noted that the Police Auditor did not investigate complaints, only monitored the investigation of complaints.

Mr. Zelenka objected to the language in #10, but agreed with the intent to create a mechanism to deal with complaints against the Police Chief. He could support Mr. Brissenden's suggestion regarding an external investigation as that could be a cleaner process than having the Police Auditor conduct the investigation. He said the City Manager had the authority to discipline any and all employees of the City of Eugene; the Charter created a police oversight system, but did not take away the manager's authority with respect to employees. He said a change that did not take away that authority and established a mechanism for dealing with misconduct, but not administrative complaints, would not violate the Charter.

Ms. Syrett pointed out the ordinance gave the auditor's office the authority to contract for the performance of outside investigations. She appreciated Mr. Zelenka's suggestion for a procedure and would support moving that forward for language development instead of changing the definition of police employee to include the chief.

Mr. Cabell commented that complaints against the Police Chief lodged with the auditor's office currently had to be dismissed for lack of jurisdiction and therefore the auditor needed to be given the authority to classify and process those complaints in some manner.

Ms. Sifuentes agreed there was no need to reclassify the Police Chief as a police employee, but there should be a complaint mechanism in place. She said that was probably a "parking lot" issue because it would require another amendment to the ordinance.

Mr. Laue supported moving Mr. Zelenka's suggestion forward for the development of draft language related to the auditor's ability to receive and classify complaints against the Police Chief. He asked for the draft language to also require either the City Manager or the Police Auditor to inform the City Council if a complaint was filed against the chief.

Ms. Sifuentes said the language should also require the City Manager to automatically forward any complaint against the chief to the auditor.

At Ms. Teninty's request, Mr. Zelenka restated his recommendation:

- Complaints against the Police Chief would be filed with and classified by the Police Auditor
- There would be guidelines determined by the City Manager for distinguishing between administrative complaints and misconduct
- The City Manager would adjudicate complaints against the Police Chief
- The Police Auditor could initiate an external investigation with a recommendation back to the City Manager for adjudication
- The City Manager should notify the City Council

Chief Kerns said a more straightforward approach could indicate the City Manager was responsible for conducting any investigation concerning a complaint against the chief.

Mr. Zelenka said the investigation should be external.

Chief Kerns disagreed. He said the City Manager should decide the most appropriate approach to an investigation.

Mr. Ahlen reiterated his concern that the committee was creating a new mechanism that would take a considerable amount of time to craft and deflect the committee's attention away from its primary mission, although he felt there was general consensus that the auditor should be able to conduct intake and classification. He felt the auditor should make the decision about a complaint's classification.

Mr. Brissenden was concerned that the proposal would have the auditor classifying the complaint and referring it to the City Manager without any follow up. He said if the complaint was classified as misconduct the manager should be required to initiate an investigation.

Mr. Chase said he assumed the auditor would monitor an investigation of a complaint against the chief in the same way any other investigation would be monitored. He said the only difference in the recommendation was that the City Manager was the ultimate authority with respect to complaints against the Police Chief instead of the chief.

Mr. Laue said the other difference was that the City Manager would initiate the investigation.

Mr. Lidz asked for clarification of the committee's intent with respect to the difference between administrative and misconduct complaints.

Mr. Laue said generally misconduct would be violation of the Police Operations Manual and administrative complaints would relate to the executive functions of the chief. He was inclined to distinguish complaints as misconduct or service related instead of administrative.

Ms. Teninty determined that committee members wanted the draft language developed by the City Attorney to be provided concurrently to the PAORC and the City Manager so the manager would have an opportunity to respond.

Ms. Teninty asked the committee to consider amendment #11:

"The Police Auditor's budget shall be sufficient to accomplish all of the duties and responsibilities of the office including the sufficient and readily available funds to contract for external investigations."

Ms. Syrett observed as a member of the Budget Committee that the intent of the amendment was impractical and would be difficult to accomplish. She recognized the importance of funding the auditor's office and providing sufficient funds to carry out its responsibilities, but that applied to all City departments and functions. She said it was extremely difficult to codify such a requirement.

Mr. Ahlen echoed Ms. Syrett's concerns. He noted there was also a concern with one City Council potentially establishing budget items for a future council.

Mr. Chase suggested the auditor's function be treated like legal services and if additional funds were required to carry out the mandated duties the council could appropriate them as necessary.

Mr. Laue remarked that the existing ordinance already contained a provision that the auditor's office have sufficient funding for its duties to assure that the system was adequately funded to do its job. He did not think the expanded language was necessary.

Mr. Lidz cited Section 2.450(5) requiring the City Manager to include adequate funding in the proposed budget.

Mr. Zelenka said State law prohibited one council from binding another, for example offering a long-term contract to a city manager, but bonding was specifically authorized. He said if a council identified too many budget items to be maintained in the future that deprived a future council of its ability to exercise budget authority. He said the ordinance was a directive to the council that the auditor had to have certain powers; the extent to which a council funded them was a political question.

Ms. Sifuentez asked where the auditor's office fell within the budget process in terms of being subject to cuts in funding. She also asked if there were contingency funds that could be available if required to contract for external investigations.

Ms. Piercy said the auditor's office would participate in the budget process and make the case for funding like any other City department. She said the auditor also had the ability to ask the council for contingency funds in the event additional funding was required to carry out the duties of the office.

Ms. Syrett said the intent of the amendment was to prevent the auditor's office from being closed, but there needed to be some level of trust that would not occur and the auditor's office should be subsumed into the budget process just like every other department in the City.

Mr. Laue referred to the current ordinance language, which was proscriptive in terms of requiring the City Manager to include in the budget an allocation sufficient for the office of Police Auditor. He did not think any changes were required to that language.

Mr. Zelenka commented that unlike other City departments, the Police Auditor did not report to the City Manager and did not have an ongoing dialogue about issues such as budgets. He recommended amending the current ordinance language in Section 5 as follows: "The City Manager shall include in his or her recommended budget allocation sufficient for the operations of the auditor's office *to carry out the duties specified in the Charter.*"

In response to a question from Ms. Sifuentez, Mr. Lidz explained that it was acceptable to require the City Manager to include the auditor's office in the budget, but not to require the City Council to fund it as the council made final decisions on the budget.

Ms. Teninty determined that there was consensus to move Mr. Zelenka's suggestion forward. She said discussion of amendment #7 would be deferred to the next meeting.

Preparation for Future Agenda Items 1 and 4

Ms. Teninty asked the committee what information and from whom it felt it needed in order to discuss amendment #4.

Ms. Syrett stressed the importance of obtaining a legal opinion about the issue of concurrent investigations from someone other than the Lane County District Attorney's office and preferably from someone outside the area. She said those providing opinions should participate in the committee's meeting, not simply respond to written questions.

Mr. Brissenden was concerned with the time involved in having someone present information at a meeting and supported written questions.

Chief Kerns said the issue of investigations was central to one of the police department's primary functions and possibly the most critical question before the committee. He was in favor of seeking legal answers to the committee's questions about the chief's authority to suspend cases. He felt the best authority on the issue was the Lane County District Attorney, as that was who the Police Chief worked with, but he also supported having someone from another jurisdiction provide an opinion.

Ms. Sifuentez agreed with the need to have people who would be providing opinions present at the meeting to respond to questions.

Mr. Zelenka also agreed with inviting the District Attorney to participate if someone from another jurisdiction with an oversight system would also be present. He suggested providing as many questions in writing as possible in advance of the meeting.

Mr. Laue agreed with framing questions in writing in advance and having people at the meeting to respond. He said central questions were whether an administrative investigation conducted concurrently with a criminal investigation compromised the criminal investigation, what was the best practice nationally around concurrent investigations and was there a distinction between the close of a criminal investigation, i.e. an indictment, and a prosecution. His concern was that suspending a case until the end of a prosecution meant a very long delay.

Ms. Reynolds suggested Pete Sandrock, former prosecutor and police auditor in Portland or Merrick Bobb with the Police Assessment Resource Center (PARC) as legal resources for the committee.

Ms. Reynolds and Mr. Chase objected to inviting the Lane County District Attorney and preferred to obtain unbiased opinions on concurrency from others with expertise in that subject.

Ms. Piercy and Mr. Lidz urged the inclusion of the District Attorney ; it was important for the committee to be able to discuss the proposed amendment with him as his opinion had driven some of the former chief's decisions and the District Attorney was a part of the system.

Mr. Laue felt it was important to obtain the opinion of a professional prosecutor on the principles and practice of concurrent investigations. He asked the committee to return to the discussion of legal opinions following the public forum.

Public Forum

Mr. Laue reopened the floor for public input.

Hope Marston said she was not certain if the committee had agreed to allow the Police Auditor to monitor investigations of complaints against the Police Chief. She was in favor of that. She thanked the committee for its discussion of the issues.

Zachary Vishanoff stated the Lane County District Attorney should not participate in the committee's process. He related his personal experience of being charged and tried when he challenged use of force against him by the police. He said having individuals who had seen worst case scenarios and were not part of the current network provide input was extremely important and the committee should not restrict participation to only

district attorneys. He said sometimes offenders and victims were subjected to the same treatment and hoped a system where retaliation was impossible could be created.

Carol Berg-Caldwell recommended Eldon Rosenthal as a legal expert to advise the committee on concurrency. She said the Lane County District Attorney should be allowed to comment during the public forum portion of the meeting or present written comments to the committee.

Paul Prensky recommended Joseph McNamara at Standard University and former chief of police for San Jose, California as a recognized national authority on police oversight. He said the creation of a mechanism of transparency to deal with serious complaints against the Police Chief was crucial. If such a system had been in place much earlier a significant number of criminal acts against vulnerable women would have been prevented. He compared the Police Auditor's budget to the millions of dollars the City had paid out as a result of the Magana/Lara situation.

Randy Prince said he was pleased the committee was moving forward but thought having a facilitator and a chair was resulted in a somewhat fuzzy approach that made the process longer. He agreed with Mr. Laue's description of how complaints against the Police Chief could be characterized and classified. He said the only way to assure funding for the auditor's office was to clearly spell out the mandated duties so that someone could go to court if a future council failed to provide adequate funding to accomplish those duties. He urged the committee to listen to the Lane County District Attorney along with an independent expert.

Wrap-Up

Mr. Laue determined there were no objections to extending the meeting time in order to address the question of whether to seek legal opinions on the issue of concurrency from the Lane County District Attorney and an outside expert.

Ms. Piercy, seconded by Chief Kerns, moved to hear from the Lane County District Attorney.

Mr. Cabell felt constrained by limiting legal opinions to two people, one of whom was the District Attorney.

Ms. Sifuentez was concerned that based on the opinions expressed by some committee members a dialogue with the District Attorney could become very confrontational and adversarial, which would be unproductive.

Mr. Chase stated he did not want to argue with the District Attorney over a particular case.

Ms. Syrett said she did not object to hearing from the District Attorney, but agreed with Mr. Cabell that the District Attorney should not represent 50 percent of the expert opinions. She wanted to consult more outside experts.

Mr. Ahlen suggested the District Attorney could be asked to provide his rationale on the concurrency issue in writing instead of being one of two experts at the meeting.

The motion failed; Chief Kerns voting in favor.

Ms. Syrett, seconded by Mr. Cabell, moved to hear from a prosecutor from Oregon, district attorney or otherwise.

In response to a question from Mr. Chase, Mr. Laue said the committee could ask for an opinion from anyone it

wished, but suggested the number of experts participating in a meeting should be limited to two because of time constraints.

Chief Kerns indicated he was agreeable to having Pete Sandrock as an outside expert.

Ms. Sifuentez also expressed concern about limiting the experts at the meeting to two.

Ms. Teninty reminded the committee that it had only gotten through two of the four amendments scheduled on the agenda for discussion and there was significant ground yet to cover in a limited amount of time.

Ms. Syrett felt that two experts would be sufficient combined with the expertise that already existed among committee members and a written opinion from the District Attorney.

The motion passed unanimously.

Mr. Laue summarized that Mr. Sandrock would be invited and if he was unavailable someone with prosecutorial experience in Oregon and familiar with oversight or the principles concurrent investigation would be invited. Additionally, opinions could be requested from anyone else the committee identified.

Ms. Teninty stated that the committee had moved amendments #10 and #11 forward, moved amendment #12 to the end of the process and still had to address amendments #4, #7 and #1 of the original 12 to address.

The meeting was adjourned at 7:45 p.m.

(Recorded by Lynn Taylor)