

MINUTES

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

February 10, 2009
5 p.m.

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

1. Introduction and Public Forum

- **Welcome**
 - **Review of Agenda and Materials**
 - **Minutes Approval**

Mr. Laue convened the meeting of the Police Auditor Ordinance Review Committee (PAORC). He congratulated City Attorney Jerry Lidz on his recent appointment by the Attorney General to be the Solicitor General for the State of Oregon. The committee gave Mr. Lidz a round of applause.

Mr. Laue ascertained that there were no changes to the agenda. He asked if there were any corrections or additions to the minutes from the meeting held on January 29, noting that Ms. Bettman had submitted a correction to a statement attributed to her via email. None were offered. He conveyed Ms. Bettman's correction, for the record:

- Page 2, paragraph 6: "~~Her objection~~ **objective** was to insure authority..."

Mr. Laue deemed the minutes, with no objection, approved as amended.

- **Public Forum**

Mr. Laue reviewed the guidelines for the public forum. He thanked those providing testimony for taking the time.

Carol Berg-Caldwell shared that it had been a pleasure to commend the PAORC before the City Council during the Public Forum segment of the meeting on the previous evening. She approved of the responsiveness the committee had demonstrated regarding the desire for increased public input. She hoped that subpoena powers would be granted the auditor. She believed it to be a useful tool to gather evidence and testimony in order to secure fair adjudication of the matters the auditor would address. In regard to the charter, she felt the task before the committee was at the "crux of this." She averred that the end product should reflect the charter that had been "voted for twice."

Paul Prenskey registered his concerns about the trial of the young man who had been tasered in the process of an arrest in May. He said his trial had been postponed until April 14. He averred that there had been no investigation of the "serious allegations of misconduct" in this time. He provided his recollections of the movement to create a Civilian Review Board (CRB), begun in the 1990s. He opined that while the effort of the

PAORC was “sincere,” the need for reform had existed in the 1980s and the 1990s and the reforms had to be thorough and extensive.

2. Review Ordinance Language Revisions

Ms. Teninty referred to the attachment provided to everyone present that showed the ordinance sections to which changes were being recommended, with the changes in red. She asked the committee to consider any tweaks they wanted to make to section **2.450(5) Office of Police Auditor – Established**.

Regarding the phrase “...including sufficient and readily available funds to contract for external investigations” Mr. Cabell said he did not know what ‘readily available’ meant. Mr. Lidz responded that the language came from former-Councilor Bonny Bettman’s proposal and had been approved two weeks earlier. While he did not feel that wording was necessary, he thought it could be helpful to someone.

Mr. Laue surmised that ‘readily available’ would circumvent any potential holdup such as having to wait for a Supplemental Budget approval.

Mr. Pryor said if the amounts were in the thousands or millions it would require budget approval, but the amounts they were talking about were already readily available. He thought the language was a duplication of ‘sufficient.’

Mr. Brissenden arrived.

In response to a question from Mr. Cabell, Mr. Lidz reiterated that he was comfortable with either deleting the phrase or leaving it in, but he would likely delete it if it were up to him.

Mr. Cabell, seconded by Mr. Pryor, moved to delete ‘readily available’ from 2.450(5).

Mr. Cabell said it was superfluous wording.

Ms. Syrett did not see any harm in taking it out.

Mr. Alsup felt that it lent more weight to the intent of the discussions they had engaged in and he preferred to leave the wording as it had been proposed.

The motion to amend the wording by deleting ‘readily available’ passed, 8:4; Mr. Laue, Mr. Chase, Mr. Alsup, and Mr. Brissenden voting in opposition.

Mr. Cabell, seconded by Mr. Pryor, moved to accept the language as proposed including the amendment. The motion passed unanimously, 12:0. (Mr. Zelenka had not yet arrived.)

Ms. Teninty directed the committee to review proposed changes to **2.450(6)**, which was related to **2.456 Office of Police Auditor – Complaint Processing (3)(a)**. She thought the former would take them into the latter.

Mr. Pryor, seconded by Ms. Syrett, moved approval of section (6) of 2.450, as amended. The motion passed unanimously, 12:0.

Regarding 2.456(3)(a), Ms. Sifuentes felt that it would benefit the intent of the language to change the word ‘specific’ to ‘specified,’ i.e. “*Except to the extent that a ~~specific~~ **specified** state or federal law provides to the contrary...*”

Mr. Lidz thought the change was not substantial.

Ms. Reynolds commented that when a law was specified it was cited.

Mr. Laue surmised that there was support to amend the language.

Ms. Syrett, seconded by Mr. Chase, moved to amend the language to substitute 'specified' for 'specific' in the language. The motion passed unanimously, 12:0.

Mr. Pryor, seconded by Ms. Piercy, moved approval of section (3)(a) of 2.456, as amended. The motion passed unanimously, 12:0.

Ms. Teninty moved the discussion to **2.454 Office of Police Auditor – Powers and Duties (5)(a-d)**.

Ms. Medary related that the City Manager had looked over the proposed language changes, as the committee had requested, and had wanted her to determine at what point the committee desired him to weigh in on the recommendations.

Mr. Laue suggested that the City Manager should weigh in on the issues when the public weighed in on them.

Ms. Piercy urged the committee to treat him like a professional City Manager and ask him what he thought of the committee's work. She said he would weigh in when the City Council considered the recommendations regardless.

Ms. Teninty understood that the committee did want to hear the City Manager's opinions in advance of the meeting scheduled for February 26. She underscored that this was the committee's last meeting.

Ms. Syrett suggested that it would be helpful to ask him to submit comments in writing and to engage in a dialogue with the committee as well. Mr. Ahlen concurred. He asked that the City Manager be invited to the February 26 meeting.

Ms. Sifuentez wanted also to hear from the Eugene Police Employees Association (EPEA). Mr. Alsup agreed. He said this would be a good overture.

Regarding 2.454 (5)(b), Chief Kerns did not think it would be appropriate for one department head to actively monitor the investigation of another department head. He objected to the proposed language change. He said in (c) and (d) there was a reference to the auditor referring an allegation to another department of the city. He assumed that all of the paragraphs referred to allegations against the chief and did not understand when it would ever conceivably be appropriate to refer a complaint about one department head to the head of another department in the City. Mr. Lidz agreed that it would be an "awfully rare circumstance." He explained that he was trying to mirror the process for how the auditor could handle other complaints.

Chief Kerns noted that the language in (d) indicated that the auditor had the discretion whether or not to forward a complaint about the chief to the City Manager. He believed that the City Manager should know about such a complaint.

Mr. Zelenka arrived at 5:32 p.m.

Mr. Brissenden did not agree that the language referred to two different department heads. He did not believe that the auditor was a department head *per se*, rather the auditor was a “co-equal” of that position. He saw no reason why the auditor should not monitor such an investigation.

Mr. Pryor wanted to know what the context would be for one department head to monitor another department head, per subsection (b). He did not think that was what the language intended. Regarding (c) and (d), he felt that when a complainant filed a complaint, if the complaint was investigated the complainant would know. He said when the complaint was not picked up then the complainant would need to be notified. He thought those subsections were an attempt to try to say this, but the language was not clear.

Ms. Reynolds cited several examples where she had contacted other jurisdictions about complaints that were not within the purview of the City. With regard to the option of monitoring investigations, she underscored that the purpose was to ensure that it was being done thoroughly and fairly and without bias toward anyone.

Mr. Laue stated that the auditor’s office was a department. He suggested that for the sake of the process the committee should break out the subsections and address them singly.

Ms. Piercy concurred with Chief Kerns, regarding (a), that there would not be a reason to not let the City Manager know about a complaint about a police chief.

Mr. Brissenden asked whether the definition of allegation was meant to include violations of the Police Operations Manual (POM). Mr. Lidz replied that it included any substantive component of the POM but it did not include procedural or administrative matters. He noted his reluctance to refer to the POM in an ordinance, given that the POM was an administrative order of the department that could be changed or renamed.

Mr. Brissenden thought the intent of the language was to say that any complaint that could be brought against a line officer could be brought against the Chief. He felt that sometimes in some circumstances a chief could be put into some of the same positions as the line officers.

Mr. Lidz agreed that the intent was to cover the police chief when he or she was acting in the same capacity as a line officer. He said the challenge lay in not letting the definition become so broad that it covered the police chief’s exercise of responsibilities that the line officers did not have. He underscored that the vast majority of the police chief’s duties were not in on-the-street interactions with citizens, they were essentially the management of the police department.

Mr. Brissenden was still unclear what applicable law enforcement standards were and what that referenced.

Mr. Zelenka asked if it was common knowledge that the police chief’s duties incorporated everything an officer did and the management duties as well. Chief Kerns replied that this was the case in Eugene.

Mr. Ahlen believed that the language referring to ethical, professional law enforcement did mean that they would use the POM, but they were using language that would not become obsolete should the name of the POM or what it contained change.

Ms. Sifuentez suggested that they consider stating ‘in accordance with policies and procedures.’ Mr. Lidz replied that the concern for him was that some of the policies and procedures were wholly internal to the department. He stated that the POM was broad, encompassing policies and procedures for officers as well as the administrative functions of the chief, among other things.

Mr. Laue agreed that the POM was full of policies and procedures, many drawn from model policies utilized nationwide. He averred that there were standards that were applicable in this case. He expressed concern that

the committee members were “screaming at gnats and swallowing camels” by trying to prescribe in the ordinance language every circumstance and contingency that might arise.

Ms. Syrett felt the language met its intent. She thought they could add, in response to Mr. Brissenden’s concerns, the following language: “... *in accordance with applicable professional law enforcement standards, including those duties normally associated with sworn officers.*”

Chief Kerns reiterated that the chief of police did not often perform such duties as the position was mostly involved in the administrative functions of the department.

Ms. Teninty asked the committee to move on to the other subsections.

Ms. Piercy, seconded by Ms. Sifuentez, moved to amend 2.454 (a) to direct the Police Auditor to notify the City Manager should an allegation against the Chief of Police be received.

Chief Kerns asked the City Attorney if that language would then apply to subsections (b), (c), and (d). Mr. Lidz affirmed that it would, adding that it would likely render (c) superfluous.

The motion to amend the language passed unanimously, 13:0.

Ms. Syrett, seconded by Mr. Alsup, moved to accept the language of 2.454 (b), as submitted. The motion passed, 12:1; Chief Kerns voting in opposition.

Mr. Lidz said subsection (c) was now covered by subsection (a), with the previously approved amendment.

Mr. Pryor, seconded by Ms. Piercy, moved to delete 2.454 (c). The motion passed unanimously, 13:0.

Chief Kerns stated, regarding subsection (d), that the City Manager had to hear about a complaint against the chief. He said if the concern was whether or not a complainant would hear back about a complaint, then this would be the responsibility of the City Manager. He recommended that the language that suggested that the auditor could refer a complaint to another department be deleted.

Mr. Lidz pointed out that if someone made an allegation that the Chief had somehow violated the City’s land use code, it would not be an allegation for the purposes of an auditor. He said the auditor could then refer it to the Planning and Development Department.

Ms. Syrett concluded that the language in (d) could be deleted.

Mr. Laue, seconded by Ms. Sifuentez, moved to delete 2.454 (d).

Mr. Laue pointed out that the auditor was charged, in language in later policies, with notifying the complainant of results.

The motion to delete subsection (d) passed unanimously, 13:0.

Ms. Teninty asked the committee to revisit the language preceding the subsections under (5), which Mr. Brissenden had taken issue with.

Mr. Pryor suggested adding the following: “...*in accordance with applicable local policies, procedures, and ordinances.*”

Chief Kerns preferred to see what language the City Attorney would craft. He thought something akin to saying “*including those standards and rules applicable to sworn officers*” would work.

Ms. Sifuentes expressed concern that the intent was not quite clear when reading (5).

Mr. Lidz offered the following suggestion for alternate language: “*or failed to ~~act~~ perform the police chief’s duties in accordance with applicable professional law enforcement standards.*”

Ms. Syrett approved of Mr. Lidz’ suggestion.

Mr. Brissenden thought it made the language more vague. He preferred Ms. Syrett’s language because it was clear that it included both duties that were strictly applicable to the police chief and any duties that were applicable toward a sworn officer.

Chief Kerns felt that this was a case where adding more language added more confusion. He suggested that (5) could end after the first sentence which directed that the auditor should treat a complaint against the chief just as the auditor would treat a complaint against a police employee.

Ms. Piercy agreed that the intent was captured in the first sentence.

Mr. Laue reiterated that the goal was for the auditor to consider a complaint against the chief the same way that the auditor would consider a complaint against a police employee.

Ms. Piercy, seconded by Ms. Syrett, moved to amend 2.454 (5) by adding “*including those duties normally associated with sworn officers*” at the end of the paragraph.

Mr. Ahlen said it seemed wordy and could create confusion. He underscored that they would have another chance to review it.

Chief Kerns said he would oppose it because he wanted to learn more about what the language meant. He was worried that it would create vulnerability to allegations for the position of police chief that could potentially be sustained for doing what was normal for the chief of police. He added that if the motion failed he would recommend sticking with the first sentence.

Mr. Laue indicated he would support it so that it would be subject to legal review and the language would come back before the committee.

The motion passed, 11:2; Mr. Cabell and Chief Kerns voting in opposition.

Ms. Teninty moved the discussion on to **2.456 Office of Police Auditor – Complaint Processing**, starting with subsection (1) (d).

Mr. Chase confirmed that the subsection would give exclusive authority to the auditor to classify complaints and no one else.

Mr. Alsup, seconded by Ms. Sifuentes, moved to accept the language as written. The motion passed, 12:1; Chief Kerns voting in opposition.

Ms. Teninty directed the committee to continue to section 2.456 (2) (c).

Chief Kerns objected to the language because it was not the auditor's responsibility to effectively conduct criminal investigations, it was the responsibility of the chief of police. He believed that the ordinance would allow the auditor to cause the police to undertake something that could undermine an important investigation. He averred that the responsibility should rest with the individual who had the responsibility to conduct investigations.

Mr. Ahlen agreed that this was a good point, but the auditor would also be held accountable and would have some responsibility in that decision.

Chief Kerns said he was concerned about that rationale because there was an unambiguous supervision of the chief of police and there was no confusion about who held the chief accountable. He did not think the same could be said of the auditor as there was not a process or procedure for holding the auditor accountable for doing something that later created a problem.

Mr. Cabell shared the Chief's concerns. He thought the chief should instigate the investigation. He did not think it should be within the auditor's power to direct the chief.

Mr. Laue asked if part of Chief Kern's concern lay in that the auditor could call for an administrative investigation through the Internal Affairs (IA) department. Chief Kerns replied that the concern lay in that a concurrent administrative investigation could interfere with a criminal investigation that had high stakes for the community. He said the concurrency would not be the problem 99 percent of the time, but in that rare one percent it could cause trouble. He reiterated that it should not be among the auditor's responsibilities.

Ms. Piercy thought they should convey the message to council that they should come up with a procedure for how they would hold the auditor responsible.

Mr. Cabell related that the concern for him lay in that the authority for conducting the investigation would be taken from the chief of police.

Ms. Syrett did not see this ordinance language as taking authority from anyone. She averred that it would prevent the police chief from stopping oversight because of a criminal case attached to a complaint. She felt this would keep the auditor from being "thwarted" from being able to do his or her job.

Mr. Ahlen wondered if the committee should have a discussion on what responsibilities should fall to the auditor. He reiterated that the number of cases that would bring up the concerns expressed by Chief Kerns would be few.

Mr. Lidz said they were talking about the one percent of cases in which someone had to make the case on whether or not to have concurrent investigations and it had to be one or the other that made that call. He stressed that the draft said the auditor and police chief would consult with one another. He clarified, in response to concerns expressed by Ms. Syrett, that the language did allow the auditor to require the chief to do something and the auditor could say to the chief that the IA must proceed with its internal investigation even though the chief and District Attorney had asked that they did not have concurrent investigations. He stated that it would put the ultimate decision-making responsibility with the auditor to say whether the IA investigation would go forward or not.

Mr. Laue suggested that it would make the demarcation line cleaner if the auditor could authorize an outside investigation administratively but not an IA investigation.

Mr. Alsup observed that the auditor was required to be a lawyer, which would make that person an officer of the court in consultation with the police chief. He felt that they could assume the professionalism that would be

present and the scrutiny by the community that would be there for failure to perform the duties in a responsible manner would serve as the safeguards. He supported the language.

Mr. Brissenden thought it gave the authority responsibility to the auditor and this was “exactly where it should be.”

Mr. Zelenka felt that the requirement that the auditor have a Juris Doctor (JD) degree would prevent the City from hiring an auditor who would make large mistakes. He believed that anyone that would be hired would have a high character and good professional conduct. He opined that the outcome had not been good when the authority had been with the chief. He suggested that the language include notification of the council when the rare cases that cause a concurrent investigation occurred.

Chief Kerns agreed with Ms. Piercy that there were some things the committee could recommend to the council regarding the auditor. He said another history to consider was that there were no suspended investigations since October and they were operating under an agreement wherein if the auditor objected to the chief’s decision the objection would be taken to the City Manager and a discussion would occur with the City Prosecutor, the City Manager, the Police Auditor, and the Police Chief. He averred that this insured that the responsibility for how investigations would be conducted, both administrative and criminal, resided with the institution that did the investigations. He stressed that the police chief could be held inescapably responsible for the chief’s decisions already. He did not feel the City Council needed to create a new process to hold the police chief accountable. He underscored that criminal investigations could be some of the most important that could affect the community and urged the committee to leave the responsibility there.

Mr. Cabell agreed that the auditor should not be telling the IA what to do, but he thought the language could be clarified to indicate that.

Mr. Laue, seconded by Mr. Alsup, moved to recommend the proposed language for 2.456 (2) (c).

Mr. Laue underscored that the committee had heard and understood Chief Kerns’ concerns.

Mr. Pryor observed that there were legitimately competing interests in this situation, but he believed they would only be competing in a very small fraction of cases. He said he would vote for this knowing that it would have a second viewing.

The motion passed, 12:1; Chief Kerns voting in opposition.

Mr. Zelenka, seconded by Mr. Chase, moved to include in its report a recommendation that in the circumstance in which there was disagreement between the auditor, the police chief, or the prosecutor regarding concurrent investigations that the auditor notify the City Council of that disagreement.

Ms. Sifuentez asked if the committee was starting a list of recommendations to include in the report. Mr. Laue replied that the committee would include a lot of things in the report, but he thought they should make this recommendation explicit.

The motion passed unanimously, 13:0.

Ms. Teninty called for a five-minute break at 6:45 p.m.

3. Discuss Item 7 – Appeals

Ms. Teninty pointed to the draft language provided by Mr. Lidz, located in the attachment with the heading *DRAFT – Appeal of Chief’s Adjudication*.

In response to a question from Chief Kerns, Mr. Laue explained that the committee had made a motion at a past meeting that it would not forward this to the council, but would instead recommend to the council that they take up the question of appeals post haste and make a recommendation to the community in that regard. He said that the motion had passed, 7:5, and the mayor had requested that the committee revisit it and the committee decided that it was appropriate to revisit it. He stated that Mr. Lidz had then worked on draft language.

Chief Kerns remarked that this was specific language and was different from what he recalled.

Ms. Piercy reiterated her recommendation that the committee say to the council that it should develop an appeals process.

Ms. Piercy, seconded by Ms. Sifuentez, moved to make a strong recommendation to the City Council to put an appeals process into place and that the City Council do whatever it deemed necessary to make that happen.

Mr. Pryor was not ready for specific appeal language. He suggested that the City Attorney could investigate what other communities had in this regard.

Ms. Sifuentez agreed that it would be best to send it to the City Council. She felt that the committee could get bogged down in the language.

Ms. Reynolds offered to pull some language from other jurisdictions.

Mr. Lidz commented that it would be a difficult and time consuming topic to address.

Mr. Laue said he was not opposed to the idea but he was opposed to an appeal process that would require an additional charter vote. He wanted to ensure that the appeal process they developed would fit within the existing charter and within the existing form of government. He suggested that one way to put this into the strongest possible terms would be to ask the City Attorney to draft a resolution for the council to adopt in this regard.

Chief Kerns shared that the problem he had with the motion to insist that the council create an appeal process was that there were many communities that had decided that the appeal process was not only not necessary but also not appropriate. He said these communities had instead found ways to hold the chief of police accountable for decisions with the civilian oversight systems. He thought having an individual to hold accountable made the organization stronger and better suited to make change. He felt that an appeal process made it so that “this very critical responsibility” would not fall to the leaders of the organization. He believed that this undermined the power of leadership of any institution to do so. He wanted to convey to the council that the appeal process was not the only model to look at.

Ms. Syrett liked Mr. Laue’s recommendation to have the attorney craft resolution language. She felt that the Chief had a valid point, though, and thought the language should include wording such as “an appeals process or its functional equivalent.”

Ms. Syrett, seconded by Ms. Sifeuntez, moved to amend the motion to direct the City Attorney include the aforementioned addendum in draft resolution language to go before the City Council.

Mr. Chase considered a “functional equivalent of an appeal” to be the same thing. He declared that the committee had convened because what was in existence did not work.

Mr. Brissenden objected to the wording as well.

Mr. Ahlen opposed the motion and the amendment. He said he would support a request that the council should look into it.

Chief Kerns reminded the committee that the City had a good albeit imperfect civilian oversight system. He felt they had spent the first year in confrontations and did not know what it was like to have a working system. He thought they could find that the experience that the department and auditor had over the past few months was what they could come to expect. His other concern lay in that they were basing part of the decision on data that had not yet been studied. He said the three bodies, the auditor, the chief, and the CRB, had come up with different conclusions but they did not know why. He was concerned that some people would assume that if the chief was right the auditor must be wrong and vice versa, when instead they were asking three different questions but had not analyzed it. He averred that the CRB was asking whether behavior was within policy in the way that the CRB defined the policy, the auditor had been asking whether behavior was within policy based on the Supreme Court decisions that informed policy, and the chief had been asking whether behavior was within policy given that he communicated the policy with employees through the training he was familiar with. He likened it to one group asking if the sky was pretty, another asking if the sky was blue, and the third asking if this was the shade of blue the sky would be given atmospheric conditions. He felt that people thought there was an absolute need for an appeals process because there was disagreement, but there had not been any conversation at this point to understand why those decisions were being made. He urged the committee to see how the Eugene ordinance really worked before moving to “something as radical as” an appeals process.

Mr. Laue disagreed with Mr. Chase’s assertion that the system in place had failed. He did not think it had been given a chance to succeed. He averred that they needed to add a different component to the oversight, one that had the potential to be quasi-judicial. He added that he was not convinced that former-Councilor Bettman’s assertion that the wording “including but not limited to” would be effective. He had great discomfort with the idea of having another process and would not support the amendment, though he supported the original motion.

Mr. Pryor said as a city councilor he would not want to be limited in what the council could consider. He thought they might determine that an appeal process was their best option, but he did not want it to be the only option.

Mr. Lidz clarified that the committee could not limit the council’s options. He pointed out that a resolution was essentially a statement to the public. He said the best way for the council to carry out the general direction of the committee would be to direct the City Manager or to create a committee or to take action that would get things moving.

Mr. Alsup agreed with the Chief that at present they were seeing what the possibilities were for the existing charter. He said the work before them should take the personalities out and plan for the contingencies that would be necessary when adversarial situations arose.

Ms. Sifuentez wanted the committee to give a strong recommendation to the council to provide an appeal process.

The amendment failed, 12:1; Ms. Syrett voting yes.

Mr. Chase opposed the main motion. He opined that “punting” was one of the main reasons the committee had been convened.

Ms. Sifuentez did not think the committee had enough time to delve indepth into the appeal process. She felt that directing the council to do so was the right direction.

Ms. Reynolds indicated her support for the motion. She related that in her legal experience, it would be a “healthy thing” and would cause everyone to do better work.

Mr. Brissenden averred that there needed to be an appeals process.

The motion passed, 9:4; Mr. Pryor, Mr. Ahlen, Mr. Chase, and Chief Kerns voting in opposition.

4. Review and Approve Public Forum

Ms. Teninty reviewed the draft plan for the Public Forum, scheduled for February 19.

Ms. Reynolds offered to be a resource person. She said she could state exactly how the auditor’s office worked and how the changes in the ordinance language would affect the work.

Ms. Teninty asked if the five categories listed for group dialogue regarding the auditor’s authority, which were receive and classify, investigate, adjudicate, appeal, and other concerns, were not the right categories. Ms. Reynolds responded that she did not think they were. Ms. Teninty said these were the processes that she had heard addressed in the work, though they might not be the right categories.

Mr. Zelenka commented that it almost assumed that the participant knew how it worked. He was not sure they should assume that. He suggested they find a way to incorporate an explanation into the forum.

Mr. Ahlen said he would like to provide a summary to people of the ordinance and why the committee was reviewing the specific proposals that had been made.

Ms. Syrett agreed that a brief overview of the system should be included. She suggested that they develop a flow chart to delineate the auditor process.

Ms. Sifuentez remarked that this much information could be overwhelming.

Ms. Reynolds related that she had a power point presentation that would provide the information.

Ms. Teninty underscored that the conversation was meant to remain on a concept level, rather than to get into wordsmithing the actual ordinance.

Ms. Piercy suggested that they try to identify what was not working in relation to the changes that were being proposed.

Mr. Zelenka suggested that a link to the power point be included in the Web site.

Ms. Teninty ascertained from the committee that the flier looked good. She reviewed the timeline for the committee and reiterated that February 26 would be the last meeting of the committee. She said there was very little time to address the changes proposed in the motion of November 17, 2008.

Ms. Teninty left the meeting at 7:38 p.m.

5. Discuss Items from 11/17/08 Motion

Mr. Laue stated that the committee would address #16 first, which had to do with the Police Auditor's role in training. He noted that there were two places in the ordinance where training was already addressed, 2.454 (1)(f) and (g). He asked if those were inclusive enough or if there should be additional language.

Chief Kerns commented that he was not certain whether the ordinance was the right place to address this. He stated that there was no question that the CRB, the auditor, and the police administration needed to find a way to work collaboratively to take the experience of the civilian oversight system and apply it to policy and training. He suggested that the City Council should review this at a later point.

Chief Kerns, seconded by Mr. Cabell, moved to not add further language to the ordinance regarding training at this time.

Mr. Zelenka felt that the intent of this was to hold a broader discussion about types of training and at which points in the training the role of the police oversight system should be included. He did not think they were doing justice to it because there was not enough time.

Ms. Piercy recalled that when the motion had come from the City Council it instructed the committee to address the first 12 changes and it there was still time the committee could pursue the latter proposed changes. She thought it was perfectly within the parameters of this direction for the group to determine there was not enough time to address the second portion.

Mr. Alsup also recalled that former-Councilor Bettman had called them next steps. He did not think they were part of the committee's charge.

Ms. Reynolds commented that the auditor and police department had much more dialogue than in the past. She said they had increased the training opportunities for the CRB and she was focusing on taking continuing legal education credit that dealt with these subjects. She added that she had asked to participate in the Taser training and had been given an hour.

The motion passed, 8:5; Ms. Piercy, Mr. Laue, Mr. Zelenka, Mr. Chase, and Mr. Brissenden voting in opposition.

Mr. Laue observed, per #17, that there was much language in the ordinance about the CRB's role in evaluating the auditor, in 2.240, 2.244 (a) through (d), and (7) (a) through (c).

Mr. Alsup, seconded by Mr. Brissenden, moved to pass on #17. The motion passed unanimously.

Mr. Laue moved on to #18, which related to the auditor's role in relation to police hiring.

Chief Kerns, seconded by Mr. Pryor, moved to pass on the item.

Ms. Piercy did not want to send the message that the committee did not think these things were important to talk about.

Ms. Syrett thought the committee members had been very forthright about what they were capable of addressing and what the body should be doing.

Ms. Piercy thought it would be cleaner if the committee made the statement that they had completed the work that they were given and did not have time for more.

Ms. Syrett suggested that this be included in their report.

Mr. Ahlen said members could still submit comments electronically for the report.

Ms. Reynolds hoped that training would become more organic with time. She related that they had just asked a member of the police department sit in on the screening committee for a replacement member of the CRB.

The motion passed, 10:3; Mr. Chase, Mr. Brissenden, and Mr. Zelenka voting no.

Mr. Laue noted that the committee was out of time for the discussion before them.

Mr. Pryor, seconded by Ms. Sifuentez, moved to include as part of the report that the committee had run out of time but that the committee recommended that the items not be dropped but rather the council should find a way to address them at a future point as the council saw fit.

Mr. Zelenka clarified that this meant all of the last six items.

Mr. Alsup wanted to include some language that reflected the prioritization of some of them, such as the item regarding subpoena power.

Mr. Ahlen suggested that members submit their comment regarding prioritization electronically for the report.

Mr. Laue did not want to get into putting weight on them. He thought they should let the council determine how they should be ranked.

Ms. Sifuentez said the committee might want to entertain asking the council to extend the time.

Mr. Chase felt the committee was “punting” the controversial things.

Mr. Zelenka suggested that the committee pass the work that was completed to the council by the March 11 deadline and then resume the work after that.

Mr. Laue noted that for process sake the committee would have to defeat the motion on the table.

The motion failed unanimously, 13:0.

Ms. Piercy, seconded by Ms. Syrett, moved to direct that the committee should hand in its responses to the first 13 items and then make a recommendation to the City Council that the committee continue working on the following 5 items after that date.

Members discussed whether to include the item regarding appeals in the second segment of work.

Mr. Laue ascertained that there were no objections to extending the meeting by ten minutes.

Ms. Piercy said she had heard the most interest in spending some time on the appeals process and subpoenas.

Mr. Chase, seconded by Mr. Zelenka, moved to amend the motion to include the issue of appeals in the second round of work. The amendment passed, 12:0 (Mr. Pryor had stepped out of the room).

The main motion, as amended, passed unanimously, 12:0.

6. Public Forum

There were no members of the public who wished to speak at this time.

(Recorded by Ruth Atcherson)