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Memorandum

**TO: Rules & Open Government
Committee**

FROM: Deanna J. Santana

SUBJECT: SEE BELOW

DATE: May 25, 2007

Approved

Date 5/25/07

SUBJECT: PROPOSED FORMATS FOR THE JUNE 21, 2007 SPECIAL COUNCIL MEETING ON VARIOUS POLICE RELATED REPORTS

RECOMMENDATION

- (1) Review two proposed meeting formats as presented by the Independent Police Auditor and the Administration;
- (2) Approve one of the proposed formats, or a hybrid of the two proposals, for a Special Council Meeting scheduled on June 21, 2007, beginning at 6:00 p.m., in the City Council Chambers for consideration of various police related reports.

PURPOSE OF THE SPECIAL COUNCIL MEETING

Over the past months, several police related reports have been issued and two community forums have been held. In an effort to provide a single forum where the various police related reports and recommendations can be considered and public input can be heard, the Rules and Open Government Committee directed staff to schedule an evening Special Council Meeting for June 21, 2007. At the time that the Special Council Meeting was set, the Rules & Open Government Committee requested that the Administration return with a proposed format for the meeting.

The overall purpose of the Special Council Meeting is for the City Council to discuss issues and recommendations outlined in reports authored by the City Manager, San Jose Police Department (SYPD), and Office of the Independent Police Auditor (IPA) and/or Human Rights Commission (HRC). Listed below are the reports to be considered at the Special Council Meeting.

- (A) (1) 2006 Independent Police Auditor Annual Report (Independent Police Auditor)
- (2) Administration's Response to the Annual Report (City Manager's Office/Police Department)
- (B) (1) Community Forums Reports: "*The Police in San Jose: What's working, what isn't and what can be improved?*" (Independent Police Auditor/Human Rights Commission)

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- (2) Human Rights Commission Supplemental Recommendations related to police services. (TENTATIVE) (Human Rights Commission)
- (3) Administration's Response to the Community Forums Report (City Manager's Office)
- (C) (1) San Jose Police Department Peer City Review Study (Macias Consulting Group)
- (2) Independent Police Auditor's response to the San Jose Police Department Peer City Review Study (Independent Police Auditor)
- (D) 2006 San Jose Police Department Annual Force Response Report (Police Department)

OUTCOME

Per the attached agenda, the Special Council Meeting on various police related reports has the intended outcomes of:

1. Review and discussion of the various recommendations and key issues contained in various reports relating to the San Jose Police Department and the Independent Police Auditor;
2. Council consideration of recommendations from the City Manager, Police Department, Independent Police Auditor (IPA) and/or Human Rights Commission (HRC); and,
3. Obtain public input.

In an effort to collaborate with the Independent Police Auditor on the proposed meeting format, the City Manager provided an advanced copy of the Administration's proposed format on May 17, 2007 (Attachment 1). After discussion on May 24, 2007, the Administration and IPA are in sequence with the proposed outcomes of the meetings (as listed above) but we are not in sequence with a proposal for a structure and sequence of the meeting. With recognition that it is entirely at the City Council's discretion to determine its meeting format, along with the desire to allow the IPA an opportunity to present her proposed meeting format, a copy of both proposals is being presented to allow for the Rules & Open Government Committee to consider both and make a final determination of the meeting format for June 21. A hybrid version can also be developed by the Rules & Open Government Committee.

The Special Council Meeting should provide an opportunity for staff and the public to engage in a discussion around the issues raised at the community forums and in the reports mentioned above as well as staff findings and/or recommendations. Additionally, as noted in this report and in the proposed agenda, the Administration would like to integrate a third party expert in the citizen complaint review process to add additional perspective during the City Council discussion. As recommendations are being developed over the next weeks, it should be noted that the final agenda will include all recommendations for Council consideration and/or action.

BACKGROUND AND ANALYSIS

At the April 25, 2007 Rules and Open Government Committee, the Committee directed the Administration to schedule a Special Council Meeting for June 21, 2007 to consider the various police related reports and recommendations mentioned above that have either been issued or will be issued by early June. The Special Council Meeting is proposed for scheduling in the evening

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to allow for maximum community participation. Below is discussion on the status or brief history of the issuance of each report.

2006 Independent Police Auditor Annual Report (Independent Police Auditor) AND Administration's Response to the Annual Report (City Manager's Office/Police Department)

On June 7, the IPA is scheduled to issue its 2006 Annual Report. At an internal meeting held between the City Manager and Independent Police Auditor, arrangements were made to receive an advance copy of the Final 2006 IPA Annual Report on May 26, 2007, to allow for the Administration to prepare a response to the Final 2006 IPA Annual Report and issue it by June 7, 2007 with the goal of affording sufficient public review. Given that the issuance of the Administration's response is dependent on the timely receipt of the Final 2006 IPA Annual Report, and that this report is written in advance of the scheduled receipt date, the Administration would like to disclose that its response may be delayed past June 7, 2007 if receipt of the Final 2006 IPA Annual Report is delayed past May 26.

Community Forums Reports: "*The Police in San Jose: What's working, what isn't and what can be improved?*" (Independent Police Auditor/Human Rights Commission) AND Human Rights Commission Supplemental Recommendations related to police services. (TENTATIVE) (Human Rights Commission)

In November 2006 and in January 2007, the HRC and the IPA co-sponsored two community forums to solicit public testimony regarding police practices and concerns affecting the SJPD. On April 20, 2007, the IPA and HRC released their report and recommendations on the two forums; the City Manager also released a response to the report. Additionally, in the summary report authored by the HRC and IPA there is reference that the HRC may issue supplemental recommendations by June 2007. The Administration is also in process of preparing a supplemental response to the above reports.

2006 San Jose Police Department Annual Force Response Report (Police Department)

In March 2007, the San Jose Police Department released its 2006 Annual Force Response Report on the type of force used by SJPD officers during the reporting period of January 1-December 31, 2006. This report was released as an Information Memo and no public discussion of the report has taken place.

San Jose Police Department Peer City Review Study (Macias Consulting Group)

The above report was initiated at the August 15, 2006 Council meeting, when the Police Department was directed to prepare a final report (that was in collaboration with the IPA) that studied similar large city police department Internal Affairs (IA) and audit functions. The City Council requested the SJPD to assess:

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- How SJPD and other law enforcement agencies define “inquiries” and complaints, including how the classification process is administered,
- The investigation standards used by SJPD and other law enforcement agency in processing procedural complaints, especially whether the subject officer is interviewed;
- How other agencies utilize the civilian oversight role in in-custody death investigation and OIS cases; and
- How other selected law enforcement agencies address the issue of racial profiling. This study would aid in identifying options that would enhance customer complaint handling.

The Administration worked with the IPA to develop the survey questions and select cities to be surveyed. The SJPD administered the process to collect survey responses. When these two milestones were complete, the City Manager’s Office and Police Department engaged in discussions regarding the report preparation and implications for authoring the report. The Administration recognizes the high value placed on this requested report and desired to eliminate any perceived or real conflicts of interest that may arise when an agency issues a report on itself as it compares to other agencies.

In order to eliminate any perception of conflict of interest and obtain an independent analysis of the SJPD’s Internal Affairs Unit, the Administration elected to consult with Macias Consulting Group. This decision was made to obtain an independent analysis and to ensure that any conflicts of interests on behalf of the IA Unit or IPA would not be integrated into the final report and to ensure that the issuance of this report could withstand any potential criticism regarding its independence. The report issued by Macias Consulting Group accomplishes these concerns.

The “Outcome Section” of the memo issued to Rules Committee stated "In collaboration with the City Manager's Office and the Office of the Independent Police Auditor, the SJPD will conduct an IA Study to compare best practices of other jurisdictions to current SJPD policy to identify any procedures that might enhance the Department's current processes. The Department will prepare a final report for presentation to the Mayor and Council, which will provide an overview of the survey results." While the Administration recognizes that the development of the report is slightly different from what Council originally directed, the Administration believes that an independent perspective of these issues should be integrated into the City Council’s discussion and that collaboration of the preliminary stages leading to the study did occur.

By June 7, Macias Consulting Group will also release results of its review of major cities nationwide. Given the complexity of the topics and the various related reports, a Special Council Meeting will be scheduled so Council may review and discuss all the information comprehensively as well as seek additional staff clarification.

SPECIAL COUNCIL MEETING CRITERIA

- ✓ **Criteria 1:** Due to the nature of the topic area, may report to more than one Committee.
- **Criteria 2:** Topic area falls under more than one City Service Area
- ✓ **Criteria 3:** Topic is a Citywide issue/policy that needs Council direction and input to proceed.

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- ✓ **Criteria 4:** There is significant amount of public interest and requires a study session to accommodate public input.
- ✓ **Criteria 5:** There are outside organizations that need to participate or sit on a panel.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater; (Required: Website Posting)
- ✓ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)
- ✓ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

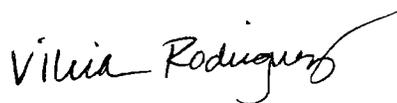
This item does not meet any of the criteria above; however, the potential outcome from this Special Council Meeting may have impacts on City policies and/or service delivery.

Extensive multilingual outreach was conducted for the two community forums, including advertisement in multilingual newspapers, e-mail blasts, and direct mailings. In addition, memos related to this item have been posted on the internet and distributed to the public and the media.

For the Special Council Meeting, staff proposes using the IPA list of contacts used to promote the community forums to inform the public of the June 21 Special Council Meeting. In addition, staff also proposes distributing information via Council Offices, SNIs, San Jose Libraries and Community Centers, and the media.

COORDINATION

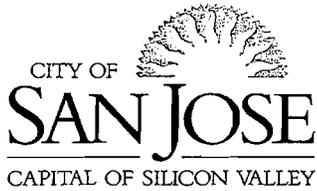
This memorandum has been coordinated with the City Attorney, City Clerk, and Independent Police Auditor.


10/ Deanna Santana
Deputy City Manager

Attachments:

- (A) Administration's Proposed Special Council Meeting Format
- (B) IPA's Proposed Special Council Meeting Format

AGENDA



DRAFT

Special City Council Meeting on Various Police Related Reports

City Hall Council Chambers
June 21, 2007
Start: 6:00 p.m.

Special City Council Meeting Outcomes:

- Review and discussion of the various recommendations and key issues contained in various reports relating to the San Jose Police Department and the Independent Police Auditor;
- Council consideration of recommendations from the City Manager, Police Department, Independent Police Auditor (IPA) and/or Human Rights Commission (HRC);
- Presentation on police oversight models and national trends; and,
- Obtain public input.

I. Opening Remarks & Review of Special Council Meeting Format (Mayor Reed)

II. Overview of Police Related Reports & Recommendations

1. **2006 Independent Police Auditor (IPA) Annual Report & the Independent Police Auditor and Human Rights Commission Report (HRC) on Community Forums on Police Issues: "The Police in San José: What's working, what isn't and what can be improved?"** (*Independent Police Auditor and Human Rights Commission*)
 - A. **San Jose Police Department and City Manager's Response to the above Reports** (*City Manager's Office/Police Department*)
2. **Internal Affairs Peer Review Study** (*Macias Consultant Group*)
 - A. **San Jose Police Department Annual Force Response Report** (*Police Department*)
 - B. **Presentation on Police Oversight Models and National Trends** (*TBD*)

Council Discussion and Direction

Public Comment

Adjourn

Memorandum

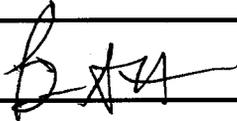
**TO: Rules And Open Government
Committee**

FROM: Barbara Attard

**SUBJECT: FORMAT FOR JUNE 21, 2007
COUNCIL STUDY SESSION ON
POLICE RELATED REPORTS**

DATE: MAY 24, 2007

Approved



Date 5/25/07

RECOMMENDATION:

Revise the order of presentations as suggested in the City Manager's Memo to the Rules and Open Government Committee:

- (A) (1) San Jose Police Department Internal Affairs Study Report (Prepared by the Macias Consulting Group)
(2) Independent Police Auditor's Response to Internal Affairs Study Report

- (B) (1) Community Forums Reports: "The police in San Jose: What's working, what isn't, and what can be improved?" (Independent Police Auditor/Human Rights Commission)
(2) Administration's Response to the Community Forums Report (City Manager's Office)

- (C) (1) 2006 Independent Police Auditor Year End Report (Independent Police Auditor [IPA])
(2) Administrations Response to 2006 IPA Year End Report (City Manager's Office/ Police Department)

- (D) 2006 San Jose Police Department Annual Force Response Report (Police Department)

DISCUSSION:

This proposed order will allow the Council to consider any policy recommendations in the IPA Year End Report with the information available from the IA Study and the Community Forums Reports. Mayor Reed asked that the IPA Year End Report and the Forums Reports be heard on June 21 in order that the Council may assess the information from all of the police related documents together.

Regarding "Public Comment":

Will public comment be allowed on each item? Members of the public may be interested in addressing the Council before Council action is taken.

Thank you for your consideration of these matters.