

SEATTLE CITY COUNCIL

600 Fourth Ave. 2nd Floor
Seattle, WA 98104



Journal of the Proceedings of the Seattle City Council

Monday, May 22, 2017

2:00 PM

Council Chamber, City Hall
600 Fourth Avenue
Seattle, WA 98104

Full Council

Bruce Harrell, Council President

Sally Bagshaw

Tim Burgess

M. Lorena González

Lisa Herbold

Rob Johnson

Debora Juarez

Mike O'Brien

Kshama Sawant

Chair Info: 206-684-8804; bruce.harrell@seattle.gov

A. CALL TO ORDER

The City Council of The City of Seattle met in the Council Chamber in City Hall in Seattle, Washington, on May 22, 2017, pursuant to the provisions of the City Charter. The meeting was called to order at 2:03 p.m., with Council President Pro Tem Burgess presiding.

B. ROLL CALL

Present: 7 - Bagshaw, Burgess, González , Johnson, Juarez, O'Brien, Sawant

Excused: 1 - Harrell

Late Arrival: 1 - Herbold

Councilmember Herbold entered the Council Chamber at 2:04 p.m.

C. ADOPTION OF INTRODUCTION AND REFERRAL CALENDAR

[IRC 113](#)**May 22, 2017**ACTION 1:

Motion was made and duly seconded to adopt the proposed Introduction and Referral Calendar.

ACTION 2:

Motion was made by Councilmember González, duly seconded and carried, to amend the proposed Introduction and Referral Calendar by introducing Resolution 31753, and by referring it to the Full Council for adoption at today's meeting.

Resolution 31753, A RESOLUTION relating to police accountability; instructing the Office of Inspector General for Public Safety and Community Police Commission to review and recommend changes to Seattle laws, policies, and practices within the scope of their expertise.

ACTION 3:

Motion was made by Councilmember O'Brien, duly seconded and carried, to amend the proposed Introduction and Referral Calendar by adding Council Bill 118963, and by re-referring it to the Full Council.

Council Bill 118963, AN ORDINANCE relating to land use and zoning; amending Section 23.76.006 of the Seattle Municipal Code to clarify that a land use decision to waive or modify structure width or setbacks for a youth service center, and integrated SEPA decisions, are Type II decisions that may be appealed to the City Hearing Examiner.

ACTION 4:

Motion was made and duly seconded to adopt the proposed Introduction and Referral Calendar as amended.

The Motion carried, and the Introduction & Referral Calendar (IRC) was adopted as amended by the following vote:

In Favor: 8 - Bagshaw, Burgess, González, Herbold, Johnson, Juarez, O'Brien, Sawant

Opposed: None

D. APPROVAL OF THE AGENDA

ACTION 1:

Motion was made and duly seconded to adopt the proposed Agenda.

ACTION 2:

Motion was made by Councilmember Burgess, duly seconded and carried, to amend the proposed Agenda by moving the Report of the Gender Equity, Safe Communities, and New Americans Committee before the Report of the Affordable Housing, Neighborhoods, and Finance Committee.

ACTION 3:

Motion was made, duly seconded and carried, to adopt the proposed Agenda as amended.

E. APPROVAL OF THE JOURNAL

[Min 127](#)

May 15, 2017

Motion was made, duly seconded and carried, to adopt the proposed Minutes by the following vote, and the President signed the Minutes:

In Favor: 8 - Bagshaw, Burgess, González , Herbold, Johnson, Juarez, O'Brien, Sawant

Opposed: None

[Min 128](#)

May 17, 2017

Motion was made, duly seconded and carried, to adopt the proposed Minutes by the following vote, and the President signed the Minutes:

In Favor: 8 - Bagshaw, Burgess, González , Herbold, Johnson, Juarez, O'Brien, Sawant

Opposed: None

F. PRESENTATIONS

Councilmember González presented a Proclamation recognizing Asian Pacific Islander Month. By unanimous consent, the Council Rules were suspended to allow Councilmember González to present the Proclamation, and to allow Linh Thai to address the Council.

G. PUBLIC COMMENT

Susan Taylor addressed the Council regarding Agenda item 6, Council Bill 118969.

Cynthia Linet addressed the Council regarding a non-Agenda item.

David Haines addressed the Council regarding a non-Agenda item.

Pete Holmes addressed the Council regarding Agenda item 6, Council Bill 118969.

Alex Tsimerman addressed the Council regarding a non-Agenda item.

Paula Revere addressed the Council regarding a non-Agenda item.

Tammy Morales addressed the Council regarding Agenda item 6, Council Bill 118969.

Raging Grannies addressed the Council regarding a non-Agenda item.

Eliana Scott-Thomas addressed the Council regarding regarding a non-Agenda item.

Laura Bernstein addressed the Council regarding Agenda item 6, Council Bill 118969.

Alex Broner addressed the Council regarding Agenda item 6, Council Bill 118969.

Robert Madza addressed the Council regarding Agenda item 6, Council Bill 118969.

Mario Sanchez addressed the Council regarding Agenda item 6, Council Bill 118969.

Gus Seixas addressed the Council regarding Agenda item 6, Council Bill 118969.

Miguel Maestas addressed the Council regarding Agenda item 6, Council Bill 118969.

Kevin Stucky addressed the Council regarding Agenda item 6, Council Bill 118969.

A.J. Honoré addressed the Council regarding a non-Agenda item.

Kenny Stuart addressed the Council regarding Agenda item 6, Council Bill 118969.

By unanimous consent, the Public Comment period was extended to allow the remaining speakers to address the Council.

Arsalan Bukhari addressed the Council regarding Agenda item 6, Council Bill 118969.

Pamela Masterman Stearns addressed the Council regarding Agenda item 6, Council Bill 118969.

Diane Narasaki addressed the Council regarding Agenda item 6, Council Bill 118969.

Howard Gale addressed the Council regarding Agenda item 6, Council Bill 118969.

Jerry Savage addressed the Council regarding Agenda item 6, Council Bill 118969.

Melissa Taylor addressed the Council regarding Agenda item 6, Council Bill 118969.

Barbara Geiger addressed the Council regarding Agenda item 6, Council Bill 118969.

Stephanie Cambia addressed the Council regarding Agenda item 6, Council Bill 118969.

Paull Holland addressed the Council regarding Agenda item 6, Council Bill 118969.

Estelle Ortega addressed the Council regarding Agenda item 6, Council Bill 118969.

Kelly McKay addressed the Council regarding Agenda item 6, Council Bill 118969.

Rev James Broughton addressed the Council regarding Agenda item 6, Council Bill 118969.

Lauren Kastanas addressed the Council regarding Agenda item 6, Council Bill 118969.

Glynn Ward addressed the Council regarding a non-Agenda item.

Michelle Storms addressed the Council regarding Agenda item 6, Council Bill 118969.

Andrea Lister addressed the Council regarding Agenda item 6, Council Bill 118969.

H. PAYMENT OF BILLS

[CB 118978](#) **AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.**

Motion was made and duly seconded to pass Council Bill 118978.

The Motion carried, the Council Bill (CB) was passed by the following vote, and the President signed the Bill:

In Favor: 8 - Bagshaw, Burgess, González , Herbold, Johnson, Juarez, O'Brien, Sawant

Opposed: None

I. COMMITTEE REPORTS

From the amended Agenda.

GENDER EQUITY, SAFE COMMUNITIES, AND NEW AMERICANS COMMITTEE:

6. [CB 118969](#) **AN ORDINANCE relating to civilian and community oversight of the police; adding a new Chapter 3.29 to the Seattle Municipal Code (SMC); recodifying Subchapters VII, VIII, and IX of Chapter 3.28 of the SMC as Subchapters I, II, and III of Chapter 3.29; amending or repealing sections in Chapters 3.28, 4.08, and 14.12 of the SMC; and concerning Ordinance 118482.**

The Committee recommends that Full Council pass as amended the Council Bill (CB).

**In Favor: 5 - González , Burgess, Bagshaw, O'Brien, Johnson
Opposed: None**

ACTION 1:

Motion was made by Councilmember González and duly seconded to amend Council Bill 118969, as shown in Attachment 1 to the Minutes.

ACTION 2:

Motion was made by Councilmember Burgess, duly seconded and carried, to amend the amendment in Action 1, Council Bill 118969, Seattle Municipal Code Section 3.29.510.A, second paragraph, as shown in the strike through language below:

For these reasons, the City shall take whatever steps are necessary to fulfill all legal prerequisites ~~—including those related to bargaining the effects of the ordinance on wages, hours, and working conditions of represented police officers—~~ within 30 days of Mayoral signature of this ordinance, or as soon as practicable thereafter, including negotiating with its police unions to update all affected collective bargaining agreements so that the agreements each conform to and are fully consistent with the provisions and obligations of this ordinance, in a manner that allows for the earlier possible implementation to fulfill the purposes of this Chapter 3.29.

ACTION 3:

The Motion in Action 1 as amended was restated and the Motion carried.

ACTION 4:

Motion was made by Councilmember Burgess, duly seconded and carried, to amend Council Bill 118969, as shown in Attachment 2 to the

Minutes.

ACTION 5:

Motion was made by Councilmember González, duly seconded and carried, to amend Council Bill 118969, by amending Seattle Municipal Code Sections 3.29.105.B, 3.29.210.A, and 3.29.330.C, as shown in the underlined language below:

3.29.105 Office of Police Accountability - Independence

B. The City shall provide staff and resources that it deems sufficient to enable OPA to perform all of its responsibilities specified in this Chapter 3.29. The OPA Director shall submit an annual budget request to the Mayor. The OPA Director may advocate for resources directly to Councilmembers or the Council during the budget process and throughout the year.

3.29.210 Office of Inspector General for Public Safety - Independence

A. The City shall provide staff and resources that it deems sufficient to enable OIG to perform all of its responsibilities specified in this Chapter 3.29. The Inspector General shall submit an annual budget request to the Mayor. The OIG budget shall be appropriated in a Budget Control Level that is independent of any other City department. The Inspector General may advocate for resources directly to Councilmembers or the Council during the budget process and throughout the year.

3.29.330 Community Police Commission - Independence

C. The City shall provide staff and resources that it deems sufficient to enable CPC to perform all of its responsibilities specified in this Chapter 3.29. The CPC Executive Director shall submit an annual budget request to the Mayor. The Office of the CPC budget shall be appropriated in a Budget Control Level that is independent of any other City department. CPC Commissioners and the CPC Executive Director may advocate for resources directly to Councilmembers or the Council during the budget process and throughout the year.

ACTION 6:

Motion was made by Councilmember Herbold, duly seconded and carried, to amend Council Bill 118969, as shown in Attachment 3 to the

Minutes.

ACTION 7:

Motion was made by Councilmember Johnson, duly seconded and carried, to amend Council Bill 118969, Seattle Municipal Code Section 3.29.480.B, as shown in the underlined language below:

B. When, due to a conflict of interest, lack of technical expertise, or capacity reasons, the City Attorney's Office declines to provide legal representation to an oversight entity in any legal matter, enforcement action, or court proceeding, the City Attorney shall so indicate to the oversight entity in writing with the reason for the declined representation, and that oversight shall be entitled to representation by private legal counsel. Private legal counsel shall be selected and retained by the City Attorney's Office, in consultation with the oversight entity. The City shall provide sufficient funding for the legal services separate from the oversight entity's operational budget, which shall be reviewed and approved in advance by the City Budget Office.

ACTION 8:

Motion was made by Councilmember González, duly seconded and carried, to amend Council Bill 118969, by amending Seattle Municipal Code Section 3.29.240.F, as shown in Attachment 4 to the Minutes.

ACTION 9:

Motion was made and duly seconded to pass Council Bill 118969 as amended.

The Motion carried, the Council Bill (CB) was passed as amended by the following vote, and the President signed the Bill:

In Favor: 8 - Bagshaw, Burgess, González, Herbold, Johnson, Juarez, O'Brien, Sawant

Opposed: None

7. [CB 118908](#) AN ORDINANCE amending Ordinance 125207, which adopted the 2017 Budget, creating and revising budget control levels, modifying positions, and changing appropriations to various departments and budget control levels; all by a 3/4 vote of the City Council.

The Committee recommends that Full Council pass as amended the Council Bill (CB).

In Favor: 4 - González , Burgess, Bagshaw, Johnson

Opposed: None

The Council Bill (CB) was passed by the following vote, and the President signed the Bill:

In Favor: 8 - Bagshaw, Burgess, González , Herbold, Johnson, Juarez, O'Brien, Sawant

Opposed: None

8. [CB 118761](#) AN ORDINANCE relating to a public safety bill of rights for the Seattle public; renumbering Subchapter VI as Subchapter V and creating a new Subchapter VI in Chapter 3.28 of the Seattle Municipal Code.

The Committee recommends that Full Council pass as amended the Council Bill (CB).

In Favor: 4 - González , Burgess, Bagshaw, Herbold

Opposed: None

The Council Bill (CB) was passed by the following vote, and the President signed the Bill:

In Favor: 8 - Bagshaw, Burgess, González , Herbold, Johnson, Juarez, O'Brien, Sawant

Opposed: None

AFFORDABLE HOUSING, NEIGHBORHOODS, AND FINANCE COMMITTEE:

1. [CB 118972](#) **AN ORDINANCE relating to City employment, commonly referred to as the First Quarter 2017 Employment Ordinance; designating positions as exempt from Civil Service status; amending Sections 4.20.315 and 4.20.320 of the Seattle Municipal Code; and ratifying and confirming certain prior acts; all by a 2/3 vote of the City Council.**

The Committee recommends that Full Council pass the Council Bill (CB).

In Favor: 2 - Burgess, Johnson

Opposed: None

The Council Bill (CB) was passed by the following vote, and the President signed the Bill:

In Favor: 8 - Bagshaw, Burgess, González , Herbold, Johnson, Juarez, O'Brien, Sawant

Opposed: None

2. [Appt 00638](#) **Appointment of Todd Toshio Snider as member, Joint Apprenticeship Training Committee, for a term to December 31, 2017.**

The Committee recommends that Full Council confirm the Appointment (Appt).

In Favor: 2 - Burgess, Johnson

Opposed: None

The Appointment (Appt) was confirmed by the following vote:

In Favor: 8 - Bagshaw, Burgess, González , Herbold, Johnson, Juarez, O'Brien, Sawant

Opposed: None

3. [Appt 00639](#) **Appointment of Bill L. Stockman as member, Joint Apprenticeship Training Committee, for a term to December 31, 2017.**

The Committee recommends that Full Council confirm the Appointment (Appt).

In Favor: 2 - Burgess, Johnson

Opposed: None

The Appointment (Appt) was confirmed by the following vote:

In Favor: 8 - Bagshaw, Burgess, González , Herbold, Johnson, Juarez, O'Brien, Sawant

Opposed: None

4. [Appt 00680](#) **Reappointment of Matt Hanna as member, Pike Place Market Preservation and Development Authority Council, for a term to June 30, 2020.**

The Committee recommends that Full Council confirm the Appointment (Appt).

In Favor: 2 - Burgess, Johnson

Opposed: None

The Appointment (Appt) was confirmed by the following vote:

In Favor: 8 - Bagshaw, Burgess, González , Herbold, Johnson, Juarez, O'Brien, Sawant

Opposed: None

5. [Appt 00692](#) **Appointment of Dianna Finnerty as member, Burke-Gilman Place Preservation and Development Authority Council, for a term to September 30, 2017.**

The Committee recommends that Full Council confirm the Appointment (Appt).

In Favor: 2 - Burgess, Johnson

Opposed: None

The Appointment (Appt) was confirmed by the following vote:

In Favor: 8 - Bagshaw, Burgess, González , Herbold, Johnson, Juarez, O'Brien, Sawant

Opposed: None

SUSTAINABILITY AND TRANSPORTATION COMMITTEE:

9. [CB 118977](#) **AN ORDINANCE relating to the 2017 Budget; amending Ordinance 125207, which adopted the 2017 Budget, including the 2017-2022 Capital Improvement Program (CIP); and creating nonexempt positions.**

The Committee recommends that Full Council pass the Council Bill (CB).

In Favor: 3 - O'Brien, Johnson, Sawant

Opposed: None

The Council Bill (CB) was passed by the following vote, and the President signed the Bill:

In Favor: 8 - Bagshaw, Burgess, González , Herbold, Johnson, Juarez, O'Brien, Sawant

Opposed: None

10. [Res 31742](#) **A RESOLUTION granting conceptual approval to Lakefront Investors 1 LLC and Lakefront Investors 2 LLC to construct, install, and maintain four sets of private communication conduits under and across Boren Avenue North, north of Mercer Street, and under and across the alley between Boren Avenue North and Fairview Avenue North, north of Mercer Street.**

The Committee recommends that Full Council adopt the Resolution (Res).

In Favor: 3 - O'Brien, Johnson, Sawant

Opposed: None

The Resolution (Res) was adopted by the following vote, and the President signed the Resolution:

In Favor: 8 - Bagshaw, Burgess, González , Herbold, Johnson, Juarez, O'Brien, Sawant

Opposed: None

J. ADOPTION OF OTHER RESOLUTIONS

11. [Res 31753](#) **A RESOLUTION relating to police accountability; instructing the Office of Inspector General for Public Safety and Community Police Commission to review and recommend changes to Seattle laws, policies, and practices within the scope of their expertise.**

Motion was made and duly seconded to adopt Resolution 31753.

The Motion carried, the Resolution (Res) was adopted by the following vote, and the President signed the Resolution:

In Favor: 8 - Bagshaw, Burgess, González , Herbold, Johnson, Juarez, O'Brien, Sawant

Opposed: None

K. OTHER BUSINESS

Motion was made, duly seconded and carried, to excuse Councilmember Sawant from the June 5, 2017 Full Council meeting.

L. ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 4:21 p.m.

Jodee Schwinn, Deputy City Clerk

Signed by me in Open Session, upon approval of the Council, on June 19, 2017.

Bruce Harrell, President of the City Council

Monica Martinez Simmons, City Clerk

Att 1 - ACTION 1 OF CB 118969

Att 2 - ACTION 4 OF CB 118969

Att 3 - ACTION 6 OF CB 118969

Att 4 - ACTION 8 OF CB 118969

Att 1 – ACTION 1 of CB 118969

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Eighth recital

WHEREAS, The City of Seattle has been operating under a Settlement Agreement and Memorandum of Understanding with the United States Department of Justice (~~MOU~~) since 2012, but also separately recognizes the need to have effective, constitutional policing and a police department that retains the trust, respect, and support of the community; and

~~((3.28.800))~~ **3.29.100 Office of ((Professional)) Police Accountability established ((created—**
) = Functions and authority ((:))

J. OPA shall be responsive to community needs and concerns through means including, but not limited to, the following:

1. Maintaining frequent and regular communications with complainants and named employees about the status of their investigations, including information to complainants about disciplinary appeal and grievance processes;

3.29.115 Office of Police Accountability Director – Appointment and removal

H. The Mayor shall be responsible for the performance evaluation of the OPA Director, and shall seek the input of the public, Council, City Attorney, OIG, Chief, SPD employees, and CPC. CPC shall provide input in accordance with subsection 3.29.360.~~((H))~~M.

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3.29.120 Office of Police Accountability Director – Authority and responsibility

Reletter subsections G-N as subsections F-M

3.29.125 Office of Police Accountability – Classifications and investigations

H. Consistent with subsection 3.29.240.D, the OPA Director shall establish in the OPA Manual a protocol for referral to OIG for classification and appropriate complaint-handling, such as Supervisor Action, investigation, or alternative resolution, any complaints involving OPA staff that cannot be handled within OPA due to a potential conflict of interest.

3.29.140 Office of Police Accountability – Staffing

E. The OPA Director and the Chief shall collaborate with the goal that the rotations of sworn staff into and out of OPA are done in such a way as to maintain continuity and expertise, professionalism, orderly case management, and the operational effectiveness of both OPA and SPD, pursuant to subsection 3.29.430.~~(H)~~G.

3.29.230 Office of Inspector General for Public Safety – Appointment and removal

G. The Council shall be responsible for the performance evaluation of the Inspector General and shall seek the input of the public, Mayor, City Attorney, Chief, OPA Director, other SPD employees, and CPC. CPC shall provide input in accordance with subsection 3.29.360.~~(M)~~N.

1 ***

2 ~~((3.28.855 OPA Auditor's Authority and Responsibility.))~~ **3.29.240 Office of Inspector**

3 **General for Public Safety – Inspector General** – Authority and responsibility

4 ***

5 C. Review OPA and SPD handling of allegations of misconduct, including directing
6 audits and reviews of OPA classifications and investigations, directing any additional OPA
7 investigation, and making certification determinations on ~~whether~~ OPA investigations ~~are~~
8 complete.

9 ***

10 **3.29.260 Office of Inspector General for Public Safety – Review of OPA investigations**

11 ***

12 C. If OIG determines that the investigation is thorough, timely, and objective, OIG
13 shall certify the investigation ~~as complete~~. After such certification, the OPA Director shall issue
14 recommended findings to the Chief.

15 ***

16 **3.29.320 Office of the Community Police Commission – Executive Director**

17 ***

18 D. The Executive Director shall have the authority and responsibility to:

19 1. Oversee and manage the functions of the Office of the CPC to advance the
20 mission of the Office and perform other duties as CPC may prescribe;

21 2. Hire, supervise, and discharge employees of the Office of the CPC.
22 Employees of the Office of the CPC shall collectively have the requisite credentials, skills, and
23 abilities to fulfill the duties and obligations of CPC set forth in this Chapter 3.29;

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3.29.350 Community Police Commission – Appointment, removal, and compensation

B. Each appointing authority shall provide a process that allows individuals to apply and be considered for appointment, and shall ensure appointees meet the qualifications outlined in Section 3.29.340 and ensure the collective membership of CPC meets the requirements of subsection 3.29.360.B. ~~of the Seattle Municipal Code~~. The appointing authorities shall consult with one another prior to making their respective appointments and reappointments. All Commissioners appointed or reappointed by the Mayor or CPC shall be confirmed by a majority vote of the full Council and shall assume office upon receiving Council confirmation; Commissioners appointed or reappointed by the Council shall assume office upon appointment or reappointment.

D. All CPC Commissioners shall be eligible to serve a maximum of three three-year terms, with each term commencing on January 1, except for the first term under this Section 3.29.350 which will begin at the time of their confirmation following enactment of Council Bill 118969. All terms shall be staggered so that no more than seven Commissioners’ terms expire in any given year. If a Commissioner assumes office prior to the expiration of the term of the Commissioner’s predecessor, the Commissioner may complete that term and then be reappointed for up to three three-year subsequent terms.

Section 39.

Full Council Meeting Minutes of May 22, 2017

1 A. By July 1, 2017, each presently serving Commissioner of the CPC created by the
2 Consent Decree and Stipulated Order of Resolution Between the United States of America and
3 The City of Seattle (Consent Decree CPC) who wishes to serve on CPC as established by
4 Chapter 3.29 of the Seattle Municipal Code (CPC) shall submit a written statement to the Mayor,
5 the Council President, and the CPC Executive Director indicating that the Commissioner wishes
6 to serve on CPC. In order to determine the extent of gaps in meeting the desired mix of
7 Commissioners, the written statement shall include a description of how the Commissioner
8 meets the qualifications in Section 3.29.340 of the Seattle Municipal Code; a list of all Council
9 districts in which the Commissioner lives, works, or has significant professional or civic ties in
10 furtherance of subsection 3.29.360.B~~+~~ of the Seattle Municipal Code; and whether the
11 Commissioner is a lawyer with public defender or civil liberties expertise, or a member of SPOG
12 or SPMA. ~~Any Commissioner who wishes to serve on CPC may continue to serve on the
13 Consent Decree CPC until they transition to CPC.~~

14 ***

15 **3.29.360 Community Police Commission – Authority and responsibility**

16 ***

17 G. Pursuant to subsection 3.29.240.F~~+~~, annually review OIG’s workplan and
18 recommend to the Inspector General specific areas for OIG investigation and evaluation,
19 including emergent issues that arise that in CPC’s judgment are needed to support public
20 confidence in SPD and related criminal justice practices.

21 ***

22 **3.29.400 Reporting of potential misconduct and police accountability issues**

23 ***

1 B. The Inspector General and CPC ~~Executive Director~~Co-Chairs, or their designees,
2 shall present a mid-year report to the public safety committee on the status of recommendations
3 issued by OPA, OIG, and CPC, including those which involve the City's budget, state legislative
4 agenda, and collective bargaining agenda. The report shall include whether follow-through was
5 timely and effectively addressed needed improvements. The Chief and OPA Director, or their
6 designees, shall participate in the presentation, as well as a Mayor's Office representative as
7 appropriate.

8 ***

9 **3.29.440 Public disclosure, data tracking, and record retention**

10 ***

11 F. For sworn employees who are terminated or resign in lieu of termination, such that the
12 employee was or would have been separated from SPD for cause and at the time of separation
13 was not "in good standing," SPD shall include documentation in SPD personnel and OPA case
14 files verifying (a) a letter was sent by SPD to the Washington State Criminal Justice Training
15 Commission (WSCJTC) regarding de-certification and consistent with the requirements set forth
16 in subsection 3.29.420.A.~~((13))~~11; (b) whether action was taken by the WSCJTC in response to
17 that letter; (c) that the Chief did not and will not grant the employee authorization to serve in a
18 Special Commission capacity, as a reserve officer or as a retired officer in a private company that
19 provides flagging, security, or related services; and (d) that the Chief did not or will not grant
20 any request under the Law Enforcement Officers Safety Act to carry a concealed firearm. The
21 latter two actions shall also be taken and documentation included in the SPD personnel and OPA
22 case files whenever a sworn employee resigns or retires with a pending complaint and does not
23 fulfill an obligation to fully participate in an OPA investigation.

1 **Subchapter V Construction and ~~((Implementation))~~ implementation**

2 **3.29.500 Construction**

3 ~~A. Provisions of this ordinance subject to the Public Employees' Collective Bargaining~~
4 ~~Act, Chapter 41.56 RCW shall not be effective until the City completes its collective bargaining~~
5 ~~obligations. As noted in SMC 3.29.010, the police are granted extraordinary power to maintain~~
6 ~~the public peace, including the power of arrest and statutory authority under RCW 9A.16.040 to~~
7 ~~use deadly force in the performance of their duties under specific circumstances. Timely and~~
8 ~~comprehensive implementation of this ordinance constitutes significant and essential~~
9 ~~governmental interests of the City, including but not limited to (a) instituting a comprehensive~~
10 ~~and lasting civilian and community oversight system that ensures that police services are~~
11 ~~delivered to the people of Seattle in a manner that fully complies with the United States~~
12 ~~Constitution, the Washington State Constitution and laws of the United States, State of~~
13 ~~Washington and City of Seattle; (b) implementing directives from the federal court, the U.S.~~
14 ~~Department of Justice, and the federal monitor; (c) ensuring effective and efficient delivery of~~
15 ~~law enforcement services; and (d) enhancing public trust and confidence in SPD and its~~
16 ~~employees;~~

17 ~~For these reasons, the City shall take whatever steps are necessary to fulfill all legal~~
18 ~~prerequisites — including those related to bargaining the effects of the ordinance on wages, hours,~~
19 ~~and working conditions of represented police officers — within 30 days of Mayoral signature of~~
20 ~~this ordinance, or as soon as practicable thereafter, including negotiating with its police unions to~~
21 ~~update all affected collective bargaining agreements so that the agreements each conform to and~~
22 ~~are fully consistent with the provisions and obligations of this ordinance, in a manner that allows~~
23 ~~for the earliest possible implementation to fulfill the purposes of this Chapter 3.29.~~

Full Council Meeting Minutes of May 22, 2017

1 ~~B~~A. In the event of a conflict between the provisions of this Chapter 3.29 and any
2 other City ordinance, the provisions of this Chapter 3.29 shall govern.

3 ~~C~~B. It is the express intent of the Council that, in the event a subsequent ordinance
4 refers to a position or office that was abolished by the ordinance introduced as Council Bill
5 118969, that reference shall be deemed to be the new position or office created by the ordinance
6 introduced as Council Bill 118969, and shall not be construed to resurrect the old position or
7 office unless it expressly so provides by reference to the ordinance introduced as Council Bill
8 118969.

9 ~~D~~C. It is the express intent of the Council that, in the event a subsequent ordinance
10 refers to or amends a section or subsection of the Seattle Municipal Code or a previously enacted
11 ordinance that is amended or recodified in the ordinance introduced as Council Bill 118969, but
12 the later ordinance fails to account for the change made by the ordinance introduced as Council
13 Bill 118969, the two sets of amendments should be given effect together if at all possible. The
14 code reviser may publish the section or subsection in the official code with all amendments
15 incorporated therein.

16 ~~E~~D. The terms and provisions of this Chapter 3.29 are not retroactive and shall apply
17 only to those rules, orders, actions, or proceedings that occur, or have been initiated, on or after
18 the effective date of the ordinance introduced as Council Bill 118969.

19 ~~F~~E. Nothing in this Chapter 3.29 creates or is intended to create a basis for any private
20 cause of action.

21 ~~G~~F. The provisions of this Chapter 3.29 are declared to be separate and severable. The
22 invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Chapter
23 3.29, or the invalidity of its application to any person or circumstance, does not affect the

1 validity of the remainder of this Chapter 3.29, or the validity of its application to other persons or
2 circumstance.

3 **3.29.510 Implementation**

4 A. Provisions of the ordinance introduced as Council Bill 118969 subject to the
5 Public Employees' Collective Bargaining Act, chapter 41.56 RCW, shall not be effective until
6 the City completes its collective bargaining obligations. As noted in Section 3.29.010, the police
7 are granted extraordinary power to maintain the public peace, including the power of arrest and
8 statutory authority under RCW 9A.16.040 to use deadly force in the performance of their duties
9 under specific circumstances. Timely and comprehensive implementation of this ordinance
10 constitutes significant and essential governmental interests of the City, including but not limited
11 to (a) instituting a comprehensive and lasting civilian and community oversight system that
12 ensures that police services are delivered to the people of Seattle in a manner that fully complies
13 with the United States Constitution, the Washington State Constitution and laws of the United
14 States, State of Washington and City of Seattle; (b) implementing directives from the federal
15 court, the U.S. Department of Justice, and the federal monitor; (c) ensuring effective and
16 efficient delivery of law enforcement services; and (d) enhancing public trust and confidence in
17 SPD and its employees.

18 For these reasons, the City shall take whatever steps are necessary to fulfill all legal
19 prerequisites – including those related to bargaining the effects of the ordinance on wages, hours,
20 and working conditions of represented police officers – within 30 days of Mayoral signature of
21 this ordinance, or as soon as practicable thereafter, including negotiating with its police unions to
22 update all affected collective bargaining agreements so that the agreements each conform to and

1 are fully consistent with the provisions and obligations of this ordinance, in a manner that allows
2 for the earliest possible implementation to fulfill the purposes of this Chapter 3.29.

3 ~~A.B.~~ Until the effective date of the ordinance introduced as Council Bill 118969, the
4 current accountability system shall remain in place to the extent necessary to remain consistent
5 with provisions of the Consent Decree in the matter of *United States of America v. City of*
6 *Seattle*, 12 Civ. 1282 (JLR).

7 ~~B.C.~~ Provisions of the ordinance introduced as Council Bill 118969 for which the City
8 has fulfilled its collective bargaining requirements, if any, will go into effect after Court approval
9 in the matter of *United States of America v. City of Seattle*, 12 Civ. 1282 (JLR) and 30 days after
10 Mayoral signature, or after 40 days if the Mayor fails to sign the bill. Consistent with Section
11 3.29.500, any provisions for which bargaining is not yet complete shall not go into effect until
12 collective bargaining obligations are satisfied.

13

Att 2 – ACTION 4 of CB 118969

1 ***

2 ~~((3.28.800))~~ **3.29.100 Office of ((Professional)) Police Accountability established ((created—**
3 **) = Functions and authority ((:))**

4 ***

5 J. OPA shall be responsive to community needs and concerns through means
6 including, but not limited to, the following:

7 1. Maintaining frequent and regular communications with complainants and
8 named employees about the status of their investigations, including information to complainants
9 about disciplinary appeal and grievance processes and any outcomes that result in the
10 modification of final findings and discipline determinations;

11 ***

12 **3.29.130 Office of Police Accountability – Classification and investigation timelines**

13 ***

14 D. If an SPD employee fails to timely refer a complaint to OPA the failure to refer
15 shall also constitute misconduct subject to complaint and investigation, and discipline under this
16 Chapter 3.29 and the authority of the Chief. OPA shall initiate a complaint and investigation of
17 such failure to timely refer.

18 ***

19 **3.29.420 Disciplinary, grievance, and appeals policies and processes**

20 A. SPD disciplinary, grievance, and appeal policies and processes shall be timely,
21 fair, consistent, and transparent.

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1 1. SPD shall track all records of Chief disciplinary determinations. The OPA
2 Director and the Inspector General shall have unfettered access to this information, and SPD
3 shall report on disciplinary patterns in such a way that the public can assess whether the Chief of
4 Police is exercising disciplinary authority in a fair and consistent manner.

5 2. To help ensure timeliness, ~~there shall be set and enforceable timeframes~~
6 ~~for any named employee to be notified by SPD of proposed findings and discipline, for any~~
7 ~~named employee and/or the named employee's union representative to request a due process~~
8 ~~hearing, for the Chief to issue a final finding and disciplinary decision, and for any named~~
9 ~~employee to file an appeal~~ the following deadlines shall apply to the disciplinary and appeal
10 processes:

11 a. OPA shall complete investigations within the period set forth in Section
12 3.29.130.

13 b. SPD shall provide a copy of any proposed Disciplinary Action Report
14 or successor disciplinary action document to the affected employee via electronic
15 communication. If the employee seeks a due-process meeting with the Chief or the Chief's
16 designee, the employee must communicate that request to the Chief's office electronically within
17 ten days of the date of receipt of the disciplinary action document.

18 c. The Chief or the Chief's designee shall hold the due process meeting
19 within 30 days of the employee's request.

20 d. The Chief or the employee may request one reasonable postponement
21 of the due-process meeting, not to exceed two weeks from the date of the originally scheduled
22 meeting.

1 e. The Chief shall issue a final disciplinary decision within two weeks of
2 the due-process meeting. This decision may be delivered electronically, with an electronic copy
3 sent to the employee's collective bargaining representative.

4 f. An employee may appeal a disciplinary decision as set forth in Chapter
5 4.08.

6 g. The Public Safety Civil Service Commission (PSCSC) shall adhere to
7 the timelines set forth in Chapter 4.08.

8 3. SPD shall implement discipline when it is imposed or shortly thereafter,
9 not upon conclusion of any disciplinary appeal process.

10 4. The Chief shall have the authority to place an SPD employee on leave
11 without pay prior to the initiation or completion of an OPA administrative investigation where
12 the employee has been charged with a felony or gross misdemeanor; where the allegations in an
13 OPA complaint could, if true, lead to termination; or where the Chief otherwise determines that
14 leave without pay is necessary for employee or public safety, or security or confidentiality of law
15 enforcement information. In any case of such leave without pay, the employee shall be entitled to
16 back pay if reinstated, less any amounts representing a sustained penalty of suspension.

17 5. No disciplinary action will result from a complaint of misconduct where
18 ~~the complaint is made to OPA.~~ misconduct comes to the attention of OPA more than ~~three~~ five
19 ~~years after the date of the incident which gave rise to the complaint.~~ alleged misconduct, except
20 where the ~~OPA complaint alleges~~ alleged misconduct involves criminal ~~conduct~~ law violations,
21 ~~dishonesty that is of a material nature, or Type III Force, as defined in the SPD policy manual or~~
22 by applicable laws, or that where the ~~named employee has concealed acts~~ alleged act of
23 misconduct was concealed.

1 6. All appeals related to employee discipline shall be governed by this
2 Chapter 3.29 and Chapter 4.08. Only appeals for which the hearing has already been scheduled
3 prior to the effective date of the ordinance introduced as Council Bill 118969—including
4 Disciplinary Review Board proceedings for officers and sergeants, and arbitration proceedings
5 for lieutenants and captains—shall continue in accordance with the relevant contractual or
6 legislated procedures. ~~After~~As of the effective date of the ordinance introduced as Council Bill
7 118969, all other disciplinary appeals may proceed only under ~~this Chapter~~ this Chapter 3.29 and
8 Chapter 4.08.

9 7. Public Safety Civil Service Commission

10 a. All appeals related to SPD employee discipline shall be open to the
11 public and shall be heard by PSCSC.

12 b. The PSCSC shall be composed of three Commissioners, none of
13 whom shall be current City employees or individuals employed by SPD within the past ten years,
14 who are selected and qualified in accordance with subsection 4.08.040.A.

15 c. Oral reprimands, written reprimands, “sustained” findings that are
16 not accompanied by formal disciplinary measures, and alleged procedural violations may be
17 processed through grievance processes established by the City Personnel Rules or by Collective
18 Bargaining Agreements, but no grievance procedure may result in any alteration of the discipline
19 imposed by the Chief. Such grievances are not subject to arbitration and may not be appealed to
20 the PSCSC or any other forum.

21 8. SPD employees shall not use any type of accrued time balances to be
22 compensated while satisfying a disciplinary penalty that includes an unpaid suspension.

1 ~~8. Challenges by SPD employees to disciplinary decisions shall be handled~~
2 ~~through the appeal process described in this Section 3.29.420. Challenges by employees to all~~
3 ~~other administrative actions or working conditions shall be handled exclusively through a~~
4 ~~separate employee grievance process as determined by collective bargaining.~~

5 9. The City Attorney's Office shall determine legal representation for SPD in
6 disciplinary challenges. The City, including SPD, shall not settle or resolve grievances or
7 disciplinary appeals without the approval of the City Attorney's Office.

8 ~~10. All appeal hearings shall be held within a set timeframe from when the~~
9 ~~Chief issues final findings and discipline, and all appeal rulings shall be issued within a set~~
10 ~~timeframe from the hearing.~~

11 ~~11.~~ The Chief shall notify in writing the Washington State Criminal Justice
12 Training Commission (WSCJTC) when any sworn employee is terminated from employment, or
13 who would have been terminated from employment had separation not already occurred,
14 whenever the nature of the employee's misconduct qualifies for de-certification under state law.
15 The notification shall include the facts and circumstances of the termination and any other
16 information necessary to provide the evidentiary basis for the Chief's disciplinary decision so as
17 to allow the WSCJTC to have a full and complete record when deciding whether de-certification
18 is appropriate.

19 ***

20 **3.29.430 Recruitment, hiring, assignments, promotions, and training**

21 ***

22 F. SPD shall ensure that its "take-home" policy for SPD vehicles, and the
23 opportunities for assignments that provide additional financial remuneration, are ~~fair and~~

1 ~~operationally efficient~~ consistent with SPD accountability practices and an effective use of
2 taxpayer resources.

3 ***

4 Section 45. Section 4.08.040 of the Seattle Municipal Code, ~~which section was~~ last
5 amended by Ordinance 123744, is amended as follows:

6 **4.08.040 ~~=Public Safety Civil Service Commission~~((;))**

7 A. There is created a Public Safety Civil Service Commission composed of three
8 members. ~~((One))~~ Two members shall be appointed by the Mayor ~~((;))~~ and one by the City
9 Council ~~((and one elected by and representing employees))~~. Commissioners shall be selected
10 using merit-based criteria and shall have appropriate expertise and objectivity regarding
11 disciplinary and promotional decisions. The Commissioners' terms shall be staggered; initial
12 appointments terms shall be for one year for one Mayoral appointment, two years for the
13 Council appointment, and three years for the ~~third~~ second Mayoral appointment. ~~=Subsequently,~~
14 ~~((The))~~ the term of each Commissioner shall be three full years ~~((; provided, that the term of the~~
15 ~~first Council Commissioner shall be two years and the term of the first Mayor's Commissioner~~
16 ~~shall be one year.))~~ Each term shall commence on January 1 ~~((st))~~, and appointments to fill
17 vacancies shall be for the unexpired term. A Commissioner shall be eligible to serve three full
18 terms plus any time spent filling a vacancy for an unexpired term or a shortened initial term.
19 Two Commissioners shall constitute a quorum. ~~((-))~~ Commissioners may receive compensation
20 for their services as may be fixed from time to time by ordinance. The term of the first
21 Commissioners appointed after the effective date of the ordinance introduced as Council Bill
22 118969 shall begin at the time of appointment, but shall be deemed to begin for the purpose of
23 calculating term length on the following January 1. Commissioners who will continue to hold

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1 office after the effective date of the ordinance introduced as Council Bill 118969 may continue
2 to hold their positions until those first terms begin; they may also be reappointed by the Mayor
3 or Council in accordance with this subsection 4.08.040.A.

4 B. ~~((Officers and employees in the Mayor's office, on the City Council staff, and on~~
5 ~~the Public Safety Civil Service Commission staff, and employees holding exempt~~
6 ~~positions))~~Current City of Seattle employees, as well as individuals employed by SPD within
7 the past ten years, shall be ineligible for the office of Commissioner.

8 ~~((C.—All regular and probationary employees who are members of this system are~~
9 ~~eligible to vote for an employee-selected Public Safety Civil Service Commissioner.~~

10 D.—~~Election shall be administered by the City Clerk. Election shall be held during the~~
11 ~~week beginning on the first Monday in November, 1987, and every third year thereafter. The~~
12 ~~City Clerk shall give notice of such election and furnish ballots therefor. Balloting shall be~~
13 ~~permitted by mail postmarked between the hours of 12:01 a.m. Monday to 12 midnight of the~~
14 ~~succeeding Friday of the election week. Provided however that when there is a holiday during~~
15 ~~that week, ballots may be postmarked no later than 12 midnight the following Monday. Ballots~~
16 ~~may also be deposited during regular office hours at polling places prescribed by the City Clerk.~~

17 E.—~~Not earlier than the first Monday in October of each year in which a~~
18 ~~Commissioner will be elected, nor later than the succeeding Friday, any person who is to~~
19 ~~become a candidate for Commissioner shall file a declaration of candidacy for office with the~~
20 ~~City Clerk, on a form furnished by the City Clerk.~~

21 F.—~~The candidate receiving the majority of votes cast shall win the election. If no~~
22 ~~candidate receives a majority of the votes cast, the two candidates receiving the highest and~~
23 ~~next highest number of votes shall be candidates in a runoff election at a date and time to be~~

1 ~~determined by the City Clerk. The runoff election be scheduled so that completion of balloting~~
2 ~~and certification shall occur before 5 P.M. on the last business day of December of the election~~
3 ~~year. Notice and balloting shall be the same as for a regular Commissioner's election.~~

4 G. ~~— Vacancies occurring in the office of the employee's Commissioner shall be filled~~
5 ~~at a special election to be called for such purpose by resolution of the City Council.~~

6 H. ~~— No City employee who is elected to the Public Safety Civil Service Commission~~
7 ~~shall suffer a monetary loss or other penalty on account of his/her absence from his/her regular~~
8 ~~position during regular hours while performing the duties of Commissioner.~~

9 I. ~~— Candidates for Public Safety Civil Service Commission shall comply with the~~
10 ~~terms of the Fair Campaign Practices Chapter 2.04 regarding filing of disclosure statements~~
11 ~~regarding campaign financing.)~~

12 ((J.))C. Pursuant to ~~((the))~~ City Charter Article XIX, Commissioners may be removed for
13 cause by the City Council following a hearing and the Mayor's ~~((appointee))~~ appointees may
14 also be removed by the Mayor upon filing a statement of reasons therefor.

15 Section 46. Section 4.08.070 of the Seattle Municipal Code, ~~which section was last~~
16 ~~amended by Ordinance 124567, is amended as follows:~~

17 **4.08.070 - Powers and duties of Commission~~((s))~~**

18 The Commission shall:

19 ***

20 F. 1. With the support of the Seattle Human Resources Director, prepare a register
21 for each class of positions in this system from the returns or reports of the examiners of the
22 persons whose standing upon examination for such class is not less than the minimum
23 established by the Commission. Persons, when graded, shall take rank upon the register as

1 candidates in the order of their relative excellence as determined by competitive examination.

2 a. Veteran's Preference. Veteran's preference in examination and appointment
3 shall be granted as required by federal and state law including RCW ~~((41.08.040 and 41.12.040))~~
4 41.04.010; provided, a person shall be entitled to use such preference only once to successfully
5 attain an appointment or promotion to a position.

6 b. Language Preference. ~~An applicant for an SPD~~ A Seattle Police Department
7 (SPD) position deemed fluent in a language other than English may be entitled to have 10
8 percent credit added to his or her the applicant's examination score for initial hiring or promotion.
9 To receive such credit on his or her examination score, the applicant's fluency will be verified by
10 the hiring authority based on a measure to be established by the Department.

11 c. Community Service/Work Experience Preference.
12 An applicant for an SPD position who has completed service in the Peace Corps, AmeriCorps or
13 other verified equivalent work experience or community service of two years or more may be
14 entitled to have 10 percent credit added to his or her the examination score. An applicant seeking
15 credit for service in the Peace Corps must present a Peace Corps Description of Service (DOS)
16 certifying completion of their service in the Peace Corps. To receive such credit on his or her
17 examination score, an applicant's equivalent work experience or community service will be
18 assessed by the hiring authority based on standards to be established by the Department. For
19 example, equivalent work experience or community service might include professional or
20 volunteer experience providing domestic violence counseling, mental health care, or social
21 services. The equivalent work experience or community service must be confirmed through
22 regular Department background verification processes.

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1 2. No applicant for an SPD position may receive more than a single 10 percent credit,
2 which may be either for ~~Veteran’s Preference, Language Preference, or Community Service~~
3 ~~Preference~~ veteran’s preference, language preference, or community service/work experience
4 preference.

5 ***

6 J. ~~((To hear))~~Hear and determine appeals or complaints respecting the
7 administration of this ~~((chapter))~~Chapter 4.08, including, but not limited to, all appeals affecting
8 discipline of SPD employees defined in ~~Section~~ subsection 4.08.060.A. In hearing police
9 discipline cases, the Commission may delegate its authority to conduct hearing appeals to a
10 ~~Hearing Officer~~hearing officer ~~Hearing Officer~~ that it retains ~~who has appropriate expertise and~~
11 ~~objectivity regarding police disciplinary decisions, or to a ~~Hearing Officer~~hearing officer in the~~
12 City of Seattle Office of the Hearing Examiner, subject to Commission review. Any hearing
13 officer shall have appropriate expertise and objectivity regarding police disciplinary decisions.

14 ***

15 *Section 47 is added by this amendment, with changes to the current Seattle Municipal Code*
16 *shown in double underline.*

17 Section 47. Section 4.08.100 of the Seattle Municipal Code, last amended by Ordinance
18 107791, is amended as follows:

19 **4.08.100 Tenure of employment for firefighters – Removal for cause~~((¶))~~**

20 A. The tenure of every regular employee who is a member of this system and
21 employed by the Seattle Fire Department (SFD) shall be only during good behavior and
22 acceptable job performance, and any such employee may be removed, suspended, demoted, or
23 discharged for cause. Suspensions shall not exceed ~~((thirty (30)))~~30(3) days. Any regular SFD

1 employee may be removed, suspended, demoted, or discharged by the appointing authority only
2 upon the filing with the Commission of a statement in writing of the reasons therefor, a duplicate
3 of which shall be served upon the employee. Any regular SFD employee so removed, suspended,
4 demoted, or discharged may within ten days from the date of service of such statement, file with
5 the Commission a written demand for a hearing, whereupon, in due course, the Commission
6 shall conduct such hearing. The hearing shall be confined to the determination of the question of
7 whether such removal, suspension, demotion, or discharge was made in good faith for cause.
8 After such hearing, the Commission may affirm the action of the appointing authority, or if it
9 shall find that the action was not made in good faith for cause, shall order the immediate
10 reinstatement or reemployment of such person in the office, place, position or employment from
11 which such person was removed, suspended, demoted, or discharged. The Commission upon
12 such hearing, in lieu of affirming the removal, may modify the order of removal, suspension,
13 demotion, or discharge by directing a suspension, without pay, for up to ~~((thirty (30)))~~ 30(~~(30))~~ days,
14 and subsequent restoration to duty, or demotion in classification, grade or pay. The findings of
15 the Commission shall be certified in writing by the appointing authority, and shall be forthwith
16 enforced by such officer.

17 ***

18 Section 48. A new Section 4.08.105 of the Seattle Municipal Code is added to Chapter
19 4.08 as follows:

20 **4.08.105 Tenure of employment for police officers — Removal in good faith for cause**

21 A. The tenure of every police officer who is an employee under this system shall be
22 only during good behavior and acceptable job performance, and any such employee may be

1 removed, suspended, demoted, or discharged in good faith for cause. Suspensions shall not
2 exceed 30 days.

3 1. Any employee removed, suspended, demoted, or discharged may within
4 ten days from the date of electronic service of the final disciplinary decision by the Chief of
5 Police, file with the Commission a written notice of appeal. The notice of appeal may be filed
6 electronically, and the employee shall submit copies of this notice to the City Attorney and the
7 Chief of Police.

8 2. The Commission shall ensure that a hearing is conducted as soon as
9 practicable, but in no event later than three months after submission of the notice of appeal. The
10 hearing shall be confined to the determination of whether the employee's removal, suspension,
11 demotion, or discharge was made in good faith for cause.

12 3. Within 30 days of a hearing conducted by the Hearing Officer, the
13 Hearing Officer shall issue a recommended decision. If neither party files written objections to
14 the recommended decision within 20 days of the date of the decision, the recommended decision
15 shall be the final decision of the Commission. If either party objects to the decision, the
16 Commission shall set a schedule for briefs and oral argument. The oral argument shall occur in a
17 public meeting of the Commission and shall be held within 60 days of the date of the
18 recommended decision. The Commission will review the recommended decision and, within 30
19 days of the oral argument, issue a final determination whether the disciplinary decision was in
20 good faith for cause, giving deference to the factual findings of the Hearing Officer. Both the
21 recommended decision and the final decision should affirm the disciplinary decision unless the
22 Commission specifically finds that the disciplinary decision was not in good faith for cause, in

1 which case the Commission may reverse or modify the discipline to the minimum extent
2 necessary to achieve this standard.

3 4. The final decision of the Commission shall be certified in writing to the
4 Chief of Police and shall be forthwith enforced by the Chief.

5 5. Any failure by the City to adhere to a deadline in this Chapter 4.08 will
6 not, in itself, invalidate the Chief's disciplinary decision. The Commission may, however,
7 consider missed deadlines in in determining whether the disciplinary decision is in good faith for
8 cause.

9 B. All hearings pursuant to this Section 4.08.105 shall be open to the public.
10 Hearings shall be held after due notice of the time and place of hearing to the affected employee.
11 The employee has the right to union and legal representation of the employee's choosing and at
12 the employee's own expense. Hearings and related deadlines shall not be delayed more than two
13 weeks due to the unavailability of the City's or the employee's union representative or legal
14 counsel.

15 C. The Commission shall cause to be made a record of all such hearings. Upon
16 request, the Commission shall furnish such record to the employee.

17 Section ~~4749~~. A new Subchapter V, which includes new Sections 3.29.500 and 3.29.510,
18 is added to Chapter 3.29 of the Seattle Municipal Code as follows:

19 **Subchapter V Construction and ~~Implementation~~implementation**

20 ***

21
22
23 *Renumber sections accordingly.*

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Att 3 – ACTION 6 of CB 118969

Section 21. Section 3.28.830 of the Seattle Municipal Code, last amended by Ordinance 120728, is renumbered, recodified in Subchapter I of Chapter 3.29, and amended as follows:

~~((3.28.830))~~ **3.29.150 Office of Police Accountability – Confidentiality of files and records ((:))**

~~((The Director shall, in the case of unsustained complaints, prepare a summary of the investigation, including a description of the number of witnesses interviewed, the investigative methods employed, and a brief explanation of why the complaint was not sustained. The Director shall provide a copy of the summary to the complainant.))~~ The)) Consistent with federal and state law, including the Criminal Records Privacy Act, chapter 10.97 RCW, as well as relevant collective bargaining agreements, the OPA Director shall protect ((the confidentiality of ((Department))) from disclosure confidential, non-public OPA and SPD files and records to which ((s/he)) OPA has been provided access,((to the extent permitted by applicable law and collective bargaining agreements, in accordance with the provisions of this ((chapter)) Chapter 3.29, and in the same manner and to the same degree as ((s/he)) the OPA Director would be obligated to protect attorney-client privileged materials under legal and ethical requirements. The OPA Director shall also be bound by the confidentiality provisions of the Criminal Records Privacy Act, (((RCW Chapter 10.97))) chapter 10.97 RCW, and ((Public Disclosure Act (RCW Section 42.17.250 et seq.))) disclosure limitations under state and federal law.)) The OPA Director shall not identify the ((subject of an)) named employee in an OPA investigation in any public report required by this ((chapter)) Chapter 3.29.

Section 31. Section 3.28.870 of the Seattle Municipal Code, last amended by Ordinance 120728, is renumbered, recodified in Subchapter II of Chapter 3.29, and amended as follows:

~~((3.28.870))~~ **3.29.280 Office of Inspector General for Public Safety – ((Confidentiality of files)) Files and records**

A. ~~((In discharging his or her responsibilities, the OPA Auditor))~~ The ~~The~~ Consistent with federal and state law, including the Criminal Records Privacy Act, chapter 10.97 RCW, as well as relevant collective bargaining agreements, the Inspector General shall protect ((the confidentiality of ((Department)) ~~from disclosure confidential, non-public OPA, and SPD, and City files and records to which ((s/he))~~ OIG has been provided access. ~~((to the extent permitted by applicable law and collective bargaining agreements, in accordance with the provisions of this Chapter 3.29, and in the same manner and to the same degree as ((s/he)) the Inspector General would be obligated to protect attorney-client privileged materials under legal and ethical requirements. The ((OPA Auditor))~~ Inspector General shall also be bound by the confidentiality provisions of the Criminal Records Privacy Act, chapter 10.97 RCW, (((RCW Chapter 10.97))) and ((Public Disclosure Act (RCW Section 42.17.250 et seq.)) ~~disclosure limitations under state and federal law.))~~ The ((OPA Auditor)) Inspector General shall not identify the ((subject of an investigation)) named employee in an ~~OIG audit~~ OPA investigation in any public report required by this ~~((chapter))~~ Chapter 3.29.

Section 40. A new Section 3.29.360 of the Seattle Municipal Code is added to Subchapter III of Chapter 3.29 as follows:

3.29.360 Community Police Commission – Authority and responsibility

1 CPC shall have the authority and responsibility to:

2 ***

3 H. Review closed OPA investigations ~~and any other SPD or OPA data~~ to identify
4 opportunities for systemic improvements in accordance with Section 3.29.380. However, CPC
5 shall not serve as a review board for individual investigations; shall not evaluate or opine on the
6 sufficiency of the evidence, findings, or determinations of any specific OPA investigations; and
7 shall not seek to influence the course or outcome of any specific OPA investigation, or the
8 findings, discipline, or other remedial action recommended or imposed in such cases.

9 ***

Section 8 is all new language (SMC 3.28.920 is renumbered, recodified, and amended, instead of repealed), with the changes to SMC 3.28.920 shown in double underline and double strikeout. For ease of viewing, this new section is not highlighted in its entirety.

10
11 Section 8. Section 3.28.920 of the Seattle Municipal Code, last amended by Ordinance
12 122126, is ~~repealed~~ renumbered, recodified in Subchapter III of Chapter 3.29, and amended as
13 follows:

14 ~~((3.28.920))~~ **3.29.380 Community Police Commission – Access to and confidentiality of files**
15 **and records((=))**

16 A. For the purpose of reviewing ~~((the OPA complaint handling process, the OPA~~
17 ~~Review Board))~~ closed OPA investigations to identify opportunities for systemic improvements,
18 CPC and the Office of the CPC shall have access to unredacted complaint forms of all OPA
19 complaints and unredacted files of all closed OPA investigations, except for information ~~((the))~~
20 OPA would be required to withhold from persons not members of criminal justice agencies
21 pursuant to the Criminal Records Privacy Act, ~~((Chapter))~~ chapter 10.97 RCW((=)), as it now
22 exists and may hereafter be amended. ~~((The OPA Review Board shall have access to summary~~

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1 ~~information necessary for its reporting obligations as set forth in Section 3.28.910 of this~~
2 ~~chapter.)~~

3 B. ~~((In discharging their responsibilities, OPA Review Board members))~~1.

4 Consistent with federal and state law, including the Criminal Records Privacy Act, chapter 10.97
5 RCW, as well as relevant collective bargaining agreements, CPC Commissioners and staff shall
6 protect ((the confidentiality of Department))from disclosure confidential, non-public OPA and
7 SPD files and records to which ((they have))CPC has been provided access. ((OPA Review
8 Board members))

9 2. CPC Commissioners and staff shall not disclose information contained in ((these
10 Department files and records))closed OPA files that would not be available to the public, except
11 in the reports required by ordinance. ((OPA Review Board))CPC reports shall not contain
12 identifying information about anyone involved in an OPA complaint or OPA investigation other
13 than ((the)) OPA ((Director))investigative personnel. “Identifying information” is defined as
14 name, badge number, physical description, address, telephone number, email address,
15 photographs or drawings, or any other unique identifying numbers such as driver’s license,
16 employee, vehicle, or social security numbers.

17 3. In the event of a public disclosure request pursuant to the Public Disclosure Act
18 (RCW 42.17.250 et seq.), ((the OPA Review Board))CPC shall not disclose any information
19 contained in OPA complaint forms or in files on closed OPA investigations, and shall transmit
20 all such requests to the OPA Director for response.

21 ~~((C.))~~4. Indemnification and defense of ((OPA Review Board members))CPC is
22 governed by Chapter 4.64((SMC)). It is outside the scope of ((OPA Review Board members’
23 assignments))CPC’s duties and authority to publicly disclose ((information in Department))any

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1 confidential, non-public SPD files and records~~((other than as allowed in subsection B of this~~
2 ~~section))~~ to which CPC has access.

3 C. CPC shall make every reasonable effort to maintain the security of files belonging
4 to other City departments and offices while in CPC's possession.

5 D. Upon completion of review, CPC shall return to the City department or office all
6 original files, reports, and records to which CPC has been provided access.

7 ***

8

Att 4 – ACTION 8 of CB 118969

Section 27. Section 3.28.855 of the Seattle Municipal Code, last amended by Ordinance 122744, is renumbered, recodified in Subchapter II of Chapter 3.29, and amended as follows:

~~((3.28.855 OPA Auditor’s Authority and Responsibility.))~~ **3.29.240 Office of Inspector General for Public Safety – Inspector General – Authority and responsibility**

The Inspector General shall have the authority and responsibility to:

F. Create OIG’s annual workplan, in consultation with OPA, CPC, and the Chair of the public safety committee, and transmit a copy to the Council by January 1. The Inspector General’s annual workplan shall identify all workplan recommendations from OPA and CPC. The Inspector General’s annual workplan shall also identify which of those recommendations were accepted, which were declined, and provide the reason for any declined recommendations. The Inspector General may modify the OIG workplan during the year to accommodate emergent issues, but in doing so, shall take into account budget constraints of OIG and its need to balance a range of priorities in adding areas to its workplan.
