

ORDINANCE NO. 2020-2881

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA MESA ADDING CHAPTER 2.30 TO THE LA MESA MUNICIPAL CODE FOR THE PURPOSE OF CREATING A COMMUNITY POLICE OVERSIGHT BOARD AND INDEPENDENT POLICE AUDITOR

WHEREAS, the City Council, in order to strengthen police-community relations, foster trust, increase transparency, respond to public demand, and build accountability, wishes to create an independent Community Police Oversight Board;

WHEREAS, on October 8, 2019, the City Council unanimously established a Citizen Public Safety Oversight Task Force (the "Task Force") to serve as an advisory body to the City Council charged with conducting specific research and making recommendations to the City Council;

WHEREAS, the Task Force has met regularly since its formation and has researched (1) what a citizen police oversight committee would look like in La Mesa; (2) what other cities of similar size are doing in regards to citizen police oversight commissions; (3) the difference between citizen police oversight commissions in general law cities and charter cities; and (4) solutions that can be achieved under each type of government and within state and local laws and policies; and

WHEREAS, as a result of that research, the Task Force has recommended the formation of a Community Police Oversight Board and the retention of an Independent Police Auditor substantially similar to that in this Ordinance;

NOW, THEREFORE, THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1: Title 2 of the La Mesa Municipal Code is hereby amended to add Chapter 2.30, entitled "Community Police Oversight Board," to read as follows:

Sections:

2.30.010	Creation and purpose.
2.30.020	Appointment and qualifications of members.
2.30.030	Terms of office.
2.30.040	Officers.
2.30.050	Meetings.
2.30.060	Compensation.
2.30.070	Budget.
2.30.080	Bylaws and procedures.
2.30.090	Training.
2.30.100	Powers and duties.
2.30.110	Public reports.
2.30.120	Independent Police Auditor.

2.30.130 Requirement of cooperation by the La Mesa Police Department and all other City employees and officials with the CPOB.

2.30.140 Severability.

2.30.010 Creation and purpose.

- (a) There is hereby permanently created the Community Police Oversight Board (hereinafter referred to as the "CPOB"). The purpose of the CPOB is to advise the Chief of Police, Mayor, City Council, and City Manager on the administration of the La Mesa Police Department and on matters of public safety within the City.
- (b) The CPOB shall function as a means of community participation and oversight by directing and reviewing audits, and by reviewing and recommending policies, practices and programs designed to bring about community policing that is sensitive, effective, and responsive to the needs of the City and its residents.
- (c) The CPOB shall promote and encourage open communication and cooperation between the La Mesa Police Department and residents of the City, recognizing that policing the City of La Mesa is a shared responsibility. The CPOB shall also develop and make recommendations directed toward informing the community of its rights and responsibilities when coming into contact with police officers.

2.30.020 Appointment and qualifications of members.

- (a) The CPOB shall consist of eleven (11) voting members appointed by the Mayor in consultation with one other City Council member and confirmed by the City Council. All voting members of the CPOB shall be residents of the City of La Mesa. The CPOB voting members shall include:
 - one (1) representative from each of the four (4) beat areas of the City,
 - one (1) representative of a La Mesa faith-based community,
 - one (1) representative of the La Mesa business community,
 - one (1) adult employee or designee of Helix Charter High School,
 - one (1) adult employee or designee of the La Mesa-Spring Valley School District,
 - one (1) young adult between the ages of 18 to 30,
 - one (1) advocate for people experiencing homelessness, substance abuse, mental health or other social issues, and
 - one (1) senior aged 62 or older.
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- (b) The CPOB shall create an internship program for La Mesa residents currently enrolled in high school or college and between the ages 16 and 22, inclusive, through which students may serve as temporary, non-voting CPOB members.
- (c) The Mayor and City Council shall strive to appoint CPOB members who reflect a diverse representation of the community and include individuals with diverse backgrounds, experiences, economic status, interactions with law enforcement,

and beliefs. No one shall be excluded from the CPOB because he or she has a criminal record.

- (d) No current public safety officers or members of their immediate families, and no individuals who served as a public safety officers in the past five (5) years or members of their immediate families, may be appointed to serve on the CPOB, but the CPOB shall regularly include participation from the Chief of Police or his or her designees in CPOB meetings as described in section 2.30.050, subdivision (b). For purposes of this subdivision, "public safety officer" is defined in Government Code section 3301.

2.30.030 Terms of office.

- (a) The term of each member of the CPOB shall be for two years, but the terms of not more than six (6) members shall expire in any year. Therefore, when the initial eleven (11) members are selected, five (5) of them shall be randomly chosen to serve an initial one-year term and the remaining six (6) shall serve an initial two-year term. No members shall serve for more than four consecutive full terms. For this purpose, the initial one-year terms in this paragraph shall be considered full terms. After four consecutive full terms, an interval of two years must pass before a member is eligible to be reappointed. The expiration date of all terms shall be December 31, but each member shall serve until his or her successor is duly appointed and qualified.
- (b) A member may resign before the expiration of a term with written notification to the chairperson of the CPOB and the Mayor.
- (c) Members of the CPOB serve at the pleasure of the City Council and may be removed from office by a majority vote of the Council. The CPOB may recommend to the City Council that a member be removed for reasons including but not limited to: (1) misuse of position as a CPOB member, (2) misuse of police-issued documents, (3) misconduct that impedes the member's ability to serve as an effective and impartial CPOB member, (4) unexcused absences from at least three consecutive meetings, (5) violation of the Code of Ethics of the National Association for Civilian Oversight of Law Enforcement (NACOLE), or (6) conflict of interest.
- (d) Upon receipt of notification of resignation or upon a Council vote of removal, the position shall be considered vacant and eligible for the Mayor, in consultation with one other City Council member, to appoint the replacement followed by confirmation by the City Council for the remainder of that term.

2.30.040 Officers.

During January of each year, the CPOB shall elect one of its members as chairperson and one as vice-chairperson who shall each hold office for one (1) year and until their respective successors are elected. No officer shall be eligible to immediately succeed himself or herself

more than once in the same office. Officers shall be elected no later than the second meeting of the CPOB following its appointment.

2.30.050 Meetings.

- (a) The CPOB shall hold its first meeting within thirty days after all of its members have been appointed and confirmed. At the first meeting, and again at the first meeting of each calendar year, the CPOB shall set the time and place of regularly scheduled meetings. The CPOB shall meet at least monthly, but during the first year after the CPOB is created, the CPOB shall meet at least every two weeks. All CPOB meetings are subject to the Brown Act.
- (b) In the interest of upholding and modeling a positive relationship between the citizens of La Mesa and the La Mesa Police Department, the La Mesa Chief of Police or his or her designee shall be invited as a guest to attend the beginning of all public meetings of the CPOB and, as the first order of new business, be placed on the agenda to comment or report on any matters under consideration by the CPOB.

2.30.060 Compensation.

Members of the CPOB shall serve without compensation, provided that the City Council may authorize the reimbursement of reasonable expenses incurred by the members in the performance of their duties.

2.30.070 Budget.

The City shall provide funding for general operating expenses, an independent auditor, expenses to communicate with the public, and, from time to time as needed, outside legal support shall be provided upon approval from the City Council. Additionally, the City shall provide funding for staff and clerical support including an executive director upon request and upon a showing of need by the CPOB. If needed, the executive director will be appointed by the City Manager with input from the CPOB.

2.30.080 Bylaws and procedures.

The CPOB may adopt bylaws and operating procedures from time to time, which shall be approved by the City Council, provided that if any provision of such bylaws or operating procedures conflicts with this Chapter 2.30_, this chapter shall prevail.

2.30.090 Training.

The City shall provide appropriate funding for introductory training of new CPOB members as well as continuing education for all members. Training shall be developed in consultation with the National Association for Civilian Oversight of Law Enforcement's Recommended Training for Board and Commission Members and shall cover all of the following, but not be limited to:

- (a) The ordinance establishing the CPOB;
- (b) Laws governing local public records and public meetings, confidentiality, police officer rights, arrestee rights, excessive force;
- (c) Police policies, practices, and procedures around stops, arrests, use of force, detention, large-scale protests and marginalized communities; and
- (d) Confidentiality training for the purpose of reviewing personnel or other documents that are protected by privacy laws.

2.30.100 Powers and duties.

To effectuate its purpose, the CPOB shall, in compliance with the California Public Safety Officers Procedural Bill of Rights Act (Gov. Code, §§ 3300 et seq.), Government Code section 38630, Government Code section 37104, Penal Code section 832.7, and all other applicable state and federal law:

- (a) Independently receive, register, and deliver to the Chief of Police, in compliance with state and federal law, all complaints against officers of the La Mesa Police Department regarding allegations of misconduct.
- (b) Automatically initiate and review audits prepared by the Independent Police Auditor of all investigations and dispositions of incidents of use of force involving the following: accidental discharge of weapons, officer-involved shootings, officer-involved deaths, or officer-involved interactions resulting in serious bodily injury, including those that occurred before the formation of the CPOB.
- (c) Have the power at its discretion to initiate and review audits prepared by the Independent Police Auditor of the Internal Affairs investigations and dispositions of any complaints of misconduct by the La Mesa Police Department or its officers.
- (d) Make recommendations, in coordination with the Independent Police Auditor, to the Chief of Police regarding further investigation, processes, and dispositions.
- (e) From time to time, as deemed necessary by the CPOB if the Independent Police Auditor and the CPOB are denied access to any files or witnesses, request in writing that the City Council issue subpoenas pursuant to its inherent subpoena power under State law to compel production of the requested files or witnesses to the Independent Police Auditor and CPOB.
- (f) Develop a program for the mediation of complaints, in coordination with the Chief of Police and with the assistance of resources such as National Conflict Resolution Center or other similarly qualified experts.

- (g) Regularly review and make recommendations, relying on the expertise and assistance of the Independent Police Auditor as needed, as to La Mesa Police Department's:
 - (1) policies, procedures, practices, and training as to regular operations;
 - (2) policies, procedures, and practices as to hiring and promotions;
 - (3) policies, procedures, practices, and training as to internal investigations of misconduct;
 - (4) initial and in-service trainings in de-escalation techniques, human relations instruction, and implicit bias training;
 - (5) policies, procedures, practices, and training as to community-oriented policing; and
 - (6) any and all other areas of policing or La Mesa Police Department policies, procedures, practices, and training that the CPOB finds appropriate for review.
- (h) Study, develop, and recommend alternative crime-prevention policies and strategies to the Chief of Police, Mayor, City Council, and City Manager; assess and make recommendations regarding the role in public safety of social services, including but not limited to those related to mental health, alcohol and substance abuse, homelessness, juvenile justice, and education.
- (i) Develop and recommend, in conjunction with the Chief of Police, Mayor, City Council, and City Manager, education programs regarding policing in La Mesa and community outreach events such as townhall meetings, forums to communicate information about neighborhood watch programs, or events designed to encourage safety and emergency preparedness.
- (j) Request and review data from the La Mesa Police Department as needed to effectuate its powers and duties. Such data may include, but is not limited to data regarding police use of force; demographics of individuals stopped, searched, or arrested; demographics of La Mesa Police Department officers and staff; officer training and qualifications; criminal proceedings; and civil lawsuits and administrative claims.
- (k) Consult with City staff and the City Council in drafting the Request for Proposal for the Independent Police Auditor, evaluate the proposals, and recommend candidate(s) to the City Council for appointment. Once every two years, the CPOB shall evaluate the performance of the Independent Police Auditor and provide a written evaluation to the City Manager, Mayor, and City Council.

2.30.110 Public reports.

- (a) The CPOB shall draft and issue public reports regarding the issues described in 2.30.100, subdivisions (g)(1) – (g)(5) and (h) annually. An annual report may be in the form of an update from a previous year's report. The CPOB may issue additional public reports as it deems appropriate.

- (b) The CPOB shall, in conjunction with the Independent Police Auditor, provide semi-annual public reports to City Council and City Manager on the number and types of complaints reviewed and the CPOB's responses, investigative findings, analysis of police data, police progress on CPOB recommendations and other updates relevant to the mission of the CPOB.
- (c) All public reports shall omit or redact any confidential or privileged information as defined by State law.

2.30.120 Independent Police Auditor.

- (a) The City shall retain the services of an Independent Police Auditor. The Independent Police Auditor shall have the authority to review and assess for objectivity, thoroughness, and appropriateness of disposition citizen complaint investigations of misconduct and internal affairs investigations associated with the La Mesa Police Department and make recommendations regarding those investigations to the Chief of Police. The essential functions and duties of the Independent Police Auditor shall be to:
 - (1) Receive citizen complaints of police misconduct directly and deliver them to the Chief of Police and the CPOB;
 - (2) Timely receive copies of all complaints of police misconduct received directly by the La Mesa Police Department;
 - (3) Automatically review and assess for objectivity, thoroughness, and appropriateness the investigations and dispositions of incidents of use of force involving the following: accidental discharge of weapons, officer-involved shootings, officer-involved deaths, or officer-involved interactions resulting in serious bodily injury;
 - (4) Review and assess for objectivity, thoroughness, and appropriateness the Internal Affairs investigations and dispositions of any complaints of misconduct by the La Mesa Police Department or its officers at the request of the CPOB, regardless of how the complaint was received;
 - (5) Provide reports of each investigation and disposition to the CPOB upon completion;
 - (6) Make recommendations to the CPOB and Chief of Police regarding further investigation, processes, and dispositions;
 - (7) Meet with the City Manager, Chief of Police, and City Council upon request, but at least annually, to discuss the Independent Police Auditor's observations, concerns, and recommendations;
 - (8) Meet with the CPOB once per quarter to discuss the Independent Police Auditor's observations, concerns, and recommendations; and
 - (9) Assist the CPOB at the CPOB's request in the auditing and assessment of the issues described in section 2.30100, subdivisions (g) and (h).
- (b) As part of his or her essential functions and duties, the Independent Police Auditor shall, in conformity with state and federal law, have the discretion to interview witnesses and have access to all La Mesa Police Department files.

- (c) The Independent Police Auditor shall serve at the pleasure of the City Council and may be removed by a majority vote of the Council.

2.30.130 Requirement of cooperation by the La Mesa Police Department and all other

- (a) The La Mesa Police Department and all other City of La Mesa employees and officials shall, except as expressly prohibited by law and to the extent authorized by the City Manager, respond promptly to any and all reasonable requests for information, interviews, data, or records for the purpose of enabling the CPOB to carry out its powers and duties. Any confidential information, including any documents pertaining to Internal Affairs complaints or investigations obtained by the CPOB from the La Mesa Police Department, shall remain confidential and shall not be disclosed to the public.
- (b) The Chief of Police shall, within 30 days of delivery of any recommendations of any kind by the Independent Police Auditor or CPOB, respond in writing to both the Independent Police Auditor and the CPOB regarding further investigation, processes, and dispositions of any complaints or investigations. The Chief of Police may request the City Manager for a single 30-day extension to respond to any recommendations upon a showing of good cause.

2.30.140 Severability

If any section, division, sentence, clause, phrase or portion of this chapter is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, the portion shall be deemed a separate, distinct and independent provision, and the holdings shall not affect the validity of the remaining portions of this chapter.

SECTION 2: This ordinance shall be effective 30 days after its adoption and the City Clerk shall certify to the adoption of this Ordinance. The City Clerk is hereby authorized to use summary publication procedures pursuant to Government Code Section 36933 utilizing a newspaper of general circulation published in the City of La Mesa.

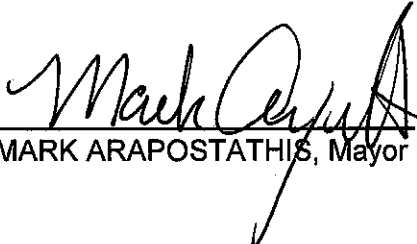
INTRODUCED AND FIRST READ at a Special meeting of the City Council of the City of La Mesa, California, held the 15th day of September 2020, and thereafter PASSED AND ADOPTED at a Regular meeting of said City Council held the 13th day of October 2020, by the following vote, to wit:

AYES: Councilmembers Parent and Weber and Mayor Arapostathis

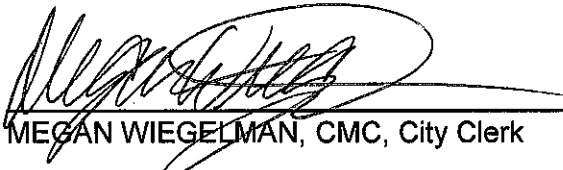
NOES: Councilmembers Alessio and Baber

ABSENT: None

APPROVED:



MARK ARAPOSTATHIS, Mayor

ATTEST:


MEGAN WIEGELMAN, CMC, City Clerk

CERTIFICATE OF CITY CLERK

I, MEGAN WIEGELMAN, City Clerk of the City of La Mesa, California, do hereby certify the foregoing to be a true and correct copy of Ordinance No. 2020-2881, duly passed and adopted by the City Council of said City on the date and by the vote therein recited and that the same has been duly published according to law.


MEGAN WIEGELMAN, CMC, City Clerk

(SEAL OF CITY)