

TO: Mayor Jerry Sanders
FROM: Municipal Employees Association
RE: Police Department Budget Meet and Confer
DATE: January 21, 2010

On two occasions in December and most recently on January 15, representatives from MEA and the City met and conferred with the City regarding the City's amended FY 2010 and new FY 2011 budget, as proposed by the Mayor in late November and as approved by the City Council at two public hearings in early December. The following is a summary of some of the discussion that has taken place during the sessions:

- While the City continues to assert that “no sworn personnel are being laid off” in its new budget, the City acknowledges that a significant—though yet unspecified—number of sworn officers will explicitly be taken from whatever role they currently perform and placed in a position occupied by a civilian employee.¹ In addition, the entire sworn force will have to absorb the rest of the duties currently performed by the eliminated civilian employees, effectively taking an additional number of sworn FTE from the job duties they currently perform.² So while it is true that no sworn personnel are slated to lose their employment with the City, the City acknowledges that a number of officers will be taken “off the street” to do the jobs currently being performed by civilians.
- Just 18 months ago, the City and its leadership in the police department signed a BPR that recommended doing precisely the opposite of what is being done today. The report criticized previous reductions in civilian PD staff, and argued that the best way to save budget dollars in the police department was to hire additional, lower-cost civilian personnel, allowing sworn officers to focus on the higher priority police work.³

¹ The City intends to fill certain vacated PCCO and PIA positions (including “less than 12” PCCOs, two PIAs that staff the “gun desk,” and other positions) with sworn officers or detectives. The City claims that it is still assessing the total number of civilian positions that will explicitly be filled by sworn personnel.

² For those PIA, PSO, and PCCO positions not explicitly filled by sworn personnel, the City intends for those duties to be “absorbed” by sworn personnel in addition to their existing workload. The City acknowledges that this will have an adverse impact on service to the citizens, result in slower response times, particularly to priority 2, 3, and 4 calls, and will take sworn officers away from the duties they currently perform.

³ “The department has resorted to using sworn police officers for assignments that should be performed by less costly civilian employees...most civilian units are currently understaffed...the value of civilianizing positions cannot be overstated...the number of civilian investigative staff must be increased to address the voluminous workload associated with processing paperwork, which sworn Detectives are currently performing...the addition of civilian positions ensures that the right person is doing the job so that the Department’s core functions are performed efficiently and effectively...having the right classification perform the right job is good business...”

- In numerous private and public statements, various City officials have stated that the reason for the City's about face is that it "has to choose" between laying off MEA represented civilian employees or POA represented sworn employees, and that the "political reality" is that laying off sworn personnel is a non starter for the elected officials. At the bargaining table, the City has asserted that keeping the sworn personnel allows for them to be used in the case of "major incidents," though the City does not articulate any plan or data to justify that tradeoff given that civilian employees also play crucial roles in "major incidents" that now apparently will have to be performed by sworn personnel.
- The City agrees that explicitly replacing lower-cost civilian employees with higher cost sworn personnel is, on its face, counterproductive to addressing a budget shortfall. However, the City asserts that because the higher cost sworn personnel are not being backfilled with new hires, then "technically" there is a cost *savings* by using sworn officers to do the work of civilian employees, even though the personnel cost is on the order of 50% more per employee. Putting aside for a moment the payday loan mentality of that budget philosophy, the reality is that eventually those sworn positions will be backfilled. The City is keeping more than 100 vacant sworn positions on the books, while the vacant civilian positions are being eliminated, meaning that the sworn positions will be filled when the City does begin hiring again. At that point, by the City's own admission, the counterproductive approach of the City's budgeting decision will come home to roost.
- The City agrees that many of the civilian positions being cut include job duties that generate revenue for the City.⁴ The City acknowledges that it has yet to assess to what extent sworn personnel will be able to replicate these revenues other than to say it is "hopeful." Nonetheless, the City has budgeted the same amount of revenue in FY 2011 as was budgeted for FY 2010. Just one example demonstrates that this amounts to nothing more than wishful thinking by the City. Parking citation and vehicle abatement revenue generated by PSOs amounts to nearly \$1 million, which the City is once again budgeting for FY 2011 even though the PSOs are proposed to be eliminated.⁵
- The City acknowledges that the need for sworn personnel overtime would increase because of the added workload being taken on as a result of the civilian layoffs. The City claims that it has not completed any assessment of the quantity of additional overtime needed, just that it would be in the "up direction." Yet the

⁴ In response to information requests by MEA, the City agrees that, for instance, PSOs wrote approximately 12,000 parking citations in calendar year 2009 and that licensing and permit revenue associated with the duties of PCCOs is \$6.05 million.

⁵ Putting an exclamation point on the "hopeful" nature of City's PD revenue projections, in response to questions about how the City intends to make up for lost parking ticket revenue generated by the PSOs, the City responded that "it is not the Police Department's role to generate revenue."

City also acknowledges that it has budgeted the same amount of overtime for FY 2011 as it did for FY 2010.

- On December 11, in response to an information request from MEA, the City claimed that there were “approximately 10” vacant civilian positions remaining in the budget, but that the City had no intention to fill those positions during the next 18 months. However, just a few weeks later the City filled a Crime Lab position, and a week later filled a vacant dispatcher position with an unclassified employee who was targeted for layoff from a PIO position. Unlike the Crime Lab position, the City did not disclose the filling of the dispatcher position when asked on January 15 about any vacancies that had been filled. When confronted specifically about the dispatcher position, the City acknowledged that it happened and added that it was “approved by Jay Goldstone.” None of the 84 classified employees slated to be eliminated were given the opportunity to fill that position, even though many of them have time in the dispatcher classification. More importantly, the City’s hiring decisions directly contradict a commitment it had made, in writing, to MEA just a few weeks prior in the course of meet and confer.
- The City stated that it is “hopeful to reach agreement with MEA” so that—in exchange—it could “lift the hiring freeze” and fill the remaining vacant positions with our displaced employees. The City also twice reminded MEA that it is the only bargaining unit to not sign off on the budget by agreeing to an MOU. MEA was left to wonder if the City intended to convey to its members that they would be prejudiced if MEA chose to continue to meet and confer in good faith over the City’s decision to explicitly transfer work performed by MEA represented employees to employees in another bargaining unit.
- The City has repeatedly refused to discuss with MEA other alternatives under consideration by the City. The City acknowledges that the Mayor’s office received \$73 million in proposed cuts by Chief Landsdowne, from which the Mayor chose \$12 million in cuts that were ultimately approved by the City Council. The City has declined repeated requests for any specifics related to the proposed alternative cuts. The City refuses to even give an example, for instance, of a non-personnel expense reduction that it considered but did not ultimately include in its budget. The City refuses to say whether it considered revenue increases in any of its fee structures, whether it considered cutting vehicle purchases or any other non-personnel expense, or provide any insight whatsoever into alternative budget reductions that it did consider or is still considering. Instead, it has essentially conveyed the position that this meet and confer is simply MEA’s opportunity to “come up with a better idea.”
- The City does not acknowledge that its budget plan triggers the duty of decisional bargaining. MEA asserts that decision bargaining is clearly required because, among other potential reasons, the City’s budget plan explicitly transfers work currently being performed by members of one bargaining unit to another. Because decisional bargaining is required, the City must complete that bargaining

in good faith *before* the decision is made, something MEA asserts the City has clearly failed to do.

- At our first meet and confer session in December, MEA and the City engaged in a discussion about whether the Mayor’s budget proposal made in late November constituted a “decision” or whether it would be the Council’s approval of that budget that constituted a decision under the law. The City did not take an explicit position on that question, but the City did not even suggest that a City Council vote (or two) to approve the budget would constitute anything other than a “decision” by the City to adopt the proposed budget. Subsequently, the City Attorney advised the Council to pass the budget “with the caveat” that its approval would not constitute “final approval” until after the meet and confer process is completed. The City maintains that while it does not believe decisional bargaining is required, “in an abundance of caution” it also asserts that the Council’s action does not constitute a decision.⁶
- MEA asserts that the addition of this “caveat” does nothing to change the fact that the City initiated meet and confer with MEA only after the decision to transfer the bargaining unit work was already made. The City made no effort to negotiate in good faith before the budget decision had already been publicly proposed, advocated, taken hold, become a foregone conclusion, and even voted on—twice—by the City Council. MEA asserts that the City is effectively going through the motions of meet and confer as an afterthought to a decision that has already been made. There has been no open discussion about other options under consideration by the City—as good faith decision bargaining would require—and in fact the City has flatly rejected to share other options under consideration.

MEA is painfully aware of the budget shortfalls facing the City of San Diego. MEA is also aware that the City recently received bad budget news from SDCERS that creates yet another budget shortfall despite the passing of a “balanced budget” by the City Council just last month.

But MEA believes it has demonstrated through what limited meet and confer has already taken place that the City’s budget plan is completely inconsistent with positions taken by the City itself in the recent past, is not well thought out, will result in *increased* budget shortfalls due to wishful budgeting both in terms of costs and revenues, and that the city has not or will not consider other viable alternatives. Other than satisfying the “political realities” faced by elected officials, the budget at it relates to the Police Department defies common sense. MEA believes there are other alternatives—that do not involve laying off sworn personnel—and asks the City to engage in bargaining alternatives in

⁶ Although the City claims no decision has been made, it is already busy recruiting and filling PCCO positions with sworn officers. On January 15, the City represented that no recruiting was being done “at this time.” But an e-mail written by Vice Lieutenant Bernie Colon on December 30 addressed to Captains and Lieutenants department-wide solicited “interested PO-II’s” to contact him “before January 8th” to fill “future openings in the Vice Permits & Licensing unit.” Lt. Colon noted that the selections will be made through “an informal process” and that he hoped to fill the positions “during the month of January.”

good faith. At a minimum, as MEA has already proposed, some portion of the civilian positions slated to be eliminated should be restored to alleviate the realities that MEA has exposed at the bargaining table.

In addition, without some substantive movement by the City, MEA cannot and will not agree to sign an MOU that includes any acknowledgement that the City has engaged in good faith bargaining. To be perfectly clear, MEA firmly believes that litigation—including seeking injunctive relieve—is not and should not become the preferred course of action at this point. MEA has an undeniable record of seeking fair compromise with the City when we have so frequently been confronted by challenges over the years. MEA has an irrefutable reputation for being a rational and cooperative partner with the City when dealing with issues that affect our mutual interests in serving the residents of San Diego. But the City's intransigence and bad faith approach to this process is causing MEA to feel backed into a corner with no good options because the City refuses to budge from a decision it clearly made before MEA's voice had been raised let alone heard. You must know that MEA's willingness to partner and to compromise has its limits and MEA will not agree to an outcome which its leadership knows in good conscience is both not true and not right.

On behalf of the hard-working employees MEA represents, this is a sincere request for you to stop this runaway train that left the station before this meet and confer process began and to lead this City to a better solution.