



ANDREW J. MEYERS, County Attorney

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MEMORANDUM

TO: Board of County Commissioners

FROM: Andrew J. Meyers, County Attorney /s/ *Andrew J. Meyers*

DATE: June 3, 2024

RE: **Item 24 on the June 4, 2024, County Commission Meeting Agenda Regarding the Police and Criminal Justice Review Board**

Item 24 on tomorrow's meeting agenda is an item that, if approved, would set a public hearing to consider repeal of the ordinance establishing the County's Police and Criminal Justice Review Board (PCJRB). This matter is being presented for the Board's consideration in response to the enactment of HB 601 during the 2024 legislative session. In large part because it was not written with precision, HB 601 permits arguments of state preemption of local ordinances relating to police misconduct, thereby resulting in additional attorneys' fees risk to the County in the event a preemption claim is raised.

During our initial briefings on this matter, we stated that there are aspects of what the PCJRB is currently permitted to do that could likely be sustained, and that, if directed, we would draft an amendment to the current ordinance (rather than a full repeal). The title of the proposed ordinance was broadly drafted to permit either amendment or repeal.

Until last Thursday night, we had understood (apparently inaccurately) that PCJRB members were already frustrated by limitations in PCJRB functions imposed by law prior to enactment of HB 601, and that there was no desire to amend the ordinance in a manner that would further restrict such functions. However, on Thursday night, the PCJRB met, broadly discussed a view that responding to HB 601 by repealing the ordinance was unnecessary, and unanimously voted to ask that the ordinance be preserved. After that meeting, the legal team met to consider alternatives to immediate repeal that would give us time to further analyze these issues while concurrently limiting risk to the County.

Because of the way preemption challenges occur under state law (and the risk of having to pay an opposing party's attorneys' fees), we believe risk could be substantially mitigated by, on June 18, expressly amending the ordinance to suspend the PCJRB from meeting from July 1, 2024, through September 15, 2024, for any purpose other than to

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analyze and discuss how the ordinance may be amended in response to the recently enacted legislation. We think that would provide sufficient time for us to meet with PCJRB members and other interested stakeholders and develop appropriate amendments to the current ordinance for the Board's later consideration.

We will be preparing an alternate version of the proposed ordinance for the Board's consideration on June 18 so the Board may determine whether to amend as stated above or whether to proceed with repeal. We will discuss these two alternatives with you during upcoming agenda briefings. In the interim, please contact me with any questions or concerns.

AJM/gf

c: Monica Cepero, County Administrator
Kimm Campbell, Deputy County Administrator
Bob Melton, County Auditor
Kathie-Ann Ulett, Deputy County Auditor
René D. Harrod, Chief Deputy County Attorney
Joseph K. Jarone, Assistant County Attorney
Scott Andron, Assistant County Attorney
Brandon R. Butterworth, Assistant County Attorney