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Govt. Grnt. \_\_\_\_\_  
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P. Hrngs. \_\_\_\_\_  
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Sponsored by: Carlson

First Reading: November 10, 2003  
AMENDED SUBSTITUTE  
COUNCIL BILL NO. 2003 - 291

Second Reading: November 24, 2003  
SPECIAL ORDINANCE NO. 24472

AN ORDINANCE

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AMENDING Special Ordinance No 23765, establishing the Police Civilian Appeal Board, by amending Section 2 of said ordinance, Organization of the Board, to remove the mandatory sunset provision for the Board, to change the term of the Board members to three years, to authorize a staggered reappointment process for Board members, and to authorize the Board to, in its discretion, conduct certain portions of its hearings in open session.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, MISSOURI, as follows:

Section 1 - That Special Ordinance No 23765, establishing the Police Civilian Appeal Board, Section 3, Organization of the Board, is hereby amended as follows:

Section 2 - Organization of the Board. The organization, membership, and qualifications of the Board members shall be as follows:

1. The Board shall be composed of five members.
2. All members shall be confirmed by the Council. Three of the members shall be selected by Council, and two of the members shall be recommended to the Council by the City Manager.
3. All members shall possess the same qualifications as for advisory board members generally under City Charter Section 15.5. Also, no member shall have any criminal felony convictions from any federal court or court of any state.

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4. (a) All members shall be appointed for a two year term. Members may be reappointed for one two-year term. **Members not replaced upon the expiration of their terms shall serve until their successors are appointed and confirmed. In the event of a vacancy, members may also be appointed to serve the remainder of an unexpired term. All Board members appointed after the end of the regular or extended terms of the current Board members as described in subsection 4(b) below shall be appointed for terms of three years, and may be reappointed for one three-year term.**

(b) To implement the continuation of the Board as set out in subsection 5 below, following the expiration of the terms of the current Board members, each of whom will have served through appointment and reappointment two full terms, three members, consisting of two of the members selected by the Council and one of the members selected by the City Manager, shall be appointed to the Board to replace three of the current members. The two members not replaced shall then be deemed to have their existing terms extended for one additional year, and shall be replaced at the end of the extended term. Thereafter, all appointments and reappointments shall be as described in subsection 4(a) above. The Board shall by vote determine which members shall be replaced and extended; or, in the event the Board is unable to decide, the Council and the City Manager shall so designate with respect to their respective selections.

5. The Board shall sunset, or cease further activities and disband after the passage of four years from the effective date of this ordinance, unless the Board is specifically authorized and empowered to continue by Council ordinance, and then only to the extent authorized by such ordinance. **The Board is hereby authorized and empowered to continue its activities after its December 12, 2003 sunset date described above, with the ability to exercise its full powers and duties as defined in this ordinance, as such may be amended from time to time, both with respect to any existing or new matters which may be or come before the Board, subject to any future action as may be taken by ordinance regarding the continued existence of the Board.**

6. Members must attend a training program, such as the Citizens Police Academy, sponsored by the Police Department, or such other training as may be provided by the Police Department and approved by the City Manager.

7. Members are required to treat confidential information which they may have occasion to see in the course of their duties in an appropriate manner, and refrain from any disclosure of such information not permitted or authorized by law or ordinance, or to persons or in contexts outside of their

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duties as members of the Board. Members who disclose any confidential employee and/or law enforcement-related information to any persons in violation of any laws, Merit System Rules or ordinances may be subject to removal from the Board by the City Council, and/or prosecution and punishment as provided in Section 1-7 of the City Code. **Provided that, the Board may vote to conduct all or part of an appeal hearing in closed session, provided that no closed or confidential records or documents are disclosed during any open session, and no information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions, is disclosed by any Board members during such open session. To the extent possible, within the guidelines set forth above, the Board shall endeavor to hold all or part of its meeting in open session.**

Note: **Bolded** language is new, and ~~stricken~~ language has been deleted.

Section 2 - This ordinance shall be in full force and effect from and after passage.

Passed at meeting: November 24, 2003

Thomas A. Carlson  
Mayor

Attest: Brend M. Cates, City Clerk

Approved as to form: Paul M. [Signature], City Attorney

Approved for Council action: [Signature], City Manager

Aff. Agcy. Noticed \_\_\_\_\_  
Emergency Required \_\_\_\_\_  
IPO Required \_\_\_\_\_  
P. Hrngs. Required \_\_\_\_\_  
Fiscal Note Required \_\_\_\_\_  
Board Rec. Required \_\_\_\_\_

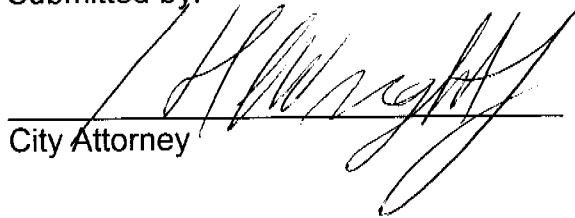
EXPLANATION TO AMENDED SUBSTITUTE COUNCIL BILL NO. 2003 - 291

ORIGINATING DEPARTMENT: Law

PURPOSE: To continue in existence the Police Civilian Appeals Board (PCAB), to provide for a staggered replacement of the current PCAB members, and to authorize the PCAB to conduct certain portions of its appeal hearings in open session.

REMARKS: This bill is identical to the original bill except that pursuant to Mayor Carlson's motion, in line 82 the word "open" has been replaced by the word "closed"; in line 83 the words "excluding their deliberations upon this appeal" have been deleted; in line 85 the word "the" has been replaced by the word "any"; and in line 92 after the word "session" the language "To the extent possible, within the guidelines set forth above, the Board shall endeavor to hold all or part of its meeting in open session" has been added.

Submitted by:

  
\_\_\_\_\_  
City Attorney

Approved by:

  
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City Manager

Aff. Agcy. Noticed \_\_\_\_\_  
Emergency Required \_\_\_\_\_  
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Fiscal Note Required \_\_\_\_\_  
Board Rec. Required \_\_\_\_\_

EXPLANATION TO SUBSTITUTE FOR COUNCIL BILL NO. 2003- 291

ORIGINATING DEPARTMENT: City Manager

**PURPOSE:** To continue in existence the Police Civilian Appeal Board (PCAB), and to provide for a staggered replacement of the current PCAB members, and to authorize the PCAB to conduct certain portions of its appeal hearings in open session.

**BACKGROUND INFORMATION:** The Police Civilian Appeals Board was created by City Council through Special Ordinance No. 23765, passed on December 13, 1999. The PCAB, a five-member citizen board, was created to review complaints of private citizens about police officer conduct matters, and to review related Police training policies and procedures. Since their appointment in July, 2000, the current members have heard and issued decisions upon nineteen appeals. As of August, 2003, the PCAB also has five appeals pending. The PCAB hears appeals filed by citizens after the matter has been reviewed and decided by the Police Department , and, after its review, issues written comments on the matters to the City Council, City Manager and Chief of Police.

Under the current ordinance, unless continued by Council action, the PCAB will sunset and disband after December 12, 2003. The proposed ordinance will continue the PCAB in full force and effect. The ordinance will also provide for a staggering process for the appointment of subsequent Board members, as all of the current members' terms expire at the same time.

Part of the substitute bill also authorizes the conducting of some of the PCAB proceedings in open session. This has been proposed to address a perceived shortcoming in the requirements currently in place about the PCAB's dealing with confidential information in the course of its work.

The Police Department Internal Affairs section investigates citizen complaints about police actions. Due to the recognized confidential nature of both employee and law

enforcement information, the Department's response is often limited to sustained, not sustained or unfounded with a limited explanation. This limited explanation is often unsatisfactory to the citizens. The Police Department responds to all citizen inquiries about Internal Affairs investigations. However, explaining the Police Department position in detail could create serious problems for the Department's operation. Informants, witnesses, personnel records, etc. are sensitive concerns.

A major reason for the Springfield Police Citizens Appeals Board (PCAB) was to bridge this divide. The idea was to have an independent group of citizens, who have agreed to keep sensitive information confidential, to look at the citizen's complaints and decide whether the Police Department's decision was correct. In effect, instead of the Police Department saying, "Trust us" a panel of fellow citizens are saying "we will look at Police decisions from the citizens view and ask the Community to "Trust us." The Board was chartered based on how other cities addressed this concern (page 14-19 from Police Accountability and Citizen Review). The charge, structure and powers of the Springfield PCAB are consistent with examples on pages 18 and 19 in this report.

The substitute bill addresses a question which has been raised about making the Board's meetings and discussions more open to the public. There is not any consistency in other cities on this issue. As you can see from the Chief's letter, State laws and the type of Board that is created often drive this issue. There is also a relationship between how public a Board's process is and the power of the Board and State open records laws. In some large cities the Board is in charge of the Police Department or is the only process that deals with police matters. In Springfield, the Charter gives this authority for all the City personnel issues including Police to the Personnel Board and the City Manager.

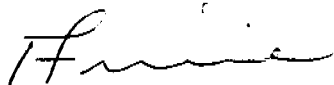
REMARKS: This ordinance is also being brought forward at this time to allow additional lead time to recruit and train potential subsequent Board members. The current ordinance requires that PCAB members attend a training program provided by the Police Department and approved by the City Manager as a part of their qualifications. The training provided to the current members totalled 64 hours, 32 hours of which was determined to be necessary before a member could participate in the hearing of a case.

With respect to the proposed addition in the substitute bill, the Board would be authorized to decide to open in a particular case two of the three areas of its activities that are closed: its hearing of the citizen's testimony; and its hearing of the Police officers testimony. The Board's deliberations would remain closed. Currently the ordinance creating the Police Citizens Appeals Board requires that testimony be heard in closed session. This protects the citizens as well as closed records. The substitute bill revises this to allow the PCAB to open some of the testimony as they think it is appropriate. We would not recommend requiring this to be open since it could discourage some citizens from taking their concern to the Board. We believe the Board would be judicious in determining when sessions should be open. The substitute bill also contains certain categories of sensitive law enforcement information which would

not in any case be subject to public disclosure in any case by the Board.

Whether the Board's deliberation should be public is up to the Council and the Board. It would seem that these discussions are similar to closed sessions of Council to discuss legal or property matters.

Submitted by:



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City Manager