



Office of the Mayor

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July 25, 2021

Tom Patti, Chair
Supervisor District 3
San Joaquin County Board of Supervisors
Send via email: tpatti@sjgov.org

RE: July 27, 2021 Regular Meeting Agenda, Item 29 – Requests by Sheriff Patrick Withrow to the Board of Supervisors Regarding the Future of Lathrop’s Police Services Contract

Dear Chair Patti:

Many residents have shared their concerns after watching television reports and hearing the statements made by Sheriff Patrick Withrow concerning contracted police services in the City of Lathrop. This is a complex issue with many different components, and unfortunately, several inaccurate statements are making the rounds.

The San Joaquin County Sheriff does not have the authority to terminate or change the contract, which provides contracted police services to the City of Lathrop through June 30, 2022. For example, the contract does not give Sheriff Withrow the right to remove our Police Chief without prior notice to the City and, in fact, states, “Staffing decreases will be made at a time agreeable to the Sheriff and City. The City, however, shall set an effective date of any decreases to coincide with the end of a fiscal year...Unless otherwise mutually agreeable between County and City, increases in staffing will not be effective prior to 180 days after the new SJCS Deployment of Personnel Form.” The City did not agree to the removal of our Chief, nor would have agreed if consulted. During the recent budget hearings, the Sheriff did not ask to remove the Chief or any other services. However, Sheriff Withrow recently advised the City that he is considering reducing other services without the City's consent. I respectfully request the County make no reduction to services. We have an adopted budget to fund all services and want to continue to provide excellent police services to our residents in cooperation with the Sheriff’s Office.

The City of Lathrop does not expect nor has ever requested that the San Joaquin County Sheriff department provide free services to the City. Thanks to its successful development, the City of Lathrop contributes to the County more per capita than any other City in the County. Therefore, the residents of the City of Lathrop pay more than their fair share of all general County expenses. California Government Code 51350 prohibits the County from charging the City again for services already funded through its contribution for services made available to all portions of the County, specifically stating:

"A county shall not charge a city contracting for a particular service, either as a direct or an indirect overhead charge, any portion of those costs which are attributable to the services made available to all portions of the county ..."

In 2018, the City asked the Sheriff's office to review the legality of overhead charges in light of California Government Code section 51350. In response, the Sheriff's Office explained that they did not know what the charges were for and referred the City to other County departments. For several months, the City continued to pay the disputed overhead charges while waiting for the County to provide additional information, which the County agreed, would include 1.) A nexus study, 2.) An audit, and 3.) A Board Resolution as required by GC 51350. After months of waiting for the overhead charges to be removed from the invoices, the City stopped paying this small portion (<5%) of its monthly invoices but made clear, in writing, that it would set the money aside to be paid upon confirmation the charges are allowable pursuant to GC 51350. The contract between the City and County is very clear: any disputed funds are to be withheld by the City until resolved by agreement. There is no provision in the contract for the City to pay the amounts in dispute and then seek reimbursement afterwards.

For over 28 months, the City has been requesting progress reports from the County. For most of that time, the County advised the City that Sheriff Withrow was working on the nexus study with the County's hired accountant. The nexus study was recently released to the City but states that it did not aim to determine which portions of the charges were attributable to the services made available to all portions of the County. Therefore, the nexus study, as written, does not help determine which expenses are proper under GC 51350. It is an accounting document that will serve as a reference document for future continued discussions between the City and the County.

The County also advised the City that it has not yet been able to conduct the audit of their invoices or adopted the Board Resolution required by GC 51350. These delays have caused the withheld amounts to add up. However, the City has made it clear that it stands ready and able to pay the charges appropriate under GC 51350.

Without prior notice or explanation, the May 2021 invoice from the Sheriff's department to the City included a new charge for \$121,588.50 simply labeled "Control 5". The City attempted to get clarification from the County on the charges but did not have sufficient information to authorize payment so this amount was withheld pursuant to the terms of the contract. However, the City made clear that this amount can be resolved quickly and separately from the overhead charges as soon as the County provides justification for the new charges. Recently, the Sheriff has publicly said that these charges were simply moved from Communications to Control 5. However, the amount budgeted for Communications was not reduced by a matching amount.

The County and City have mutually agreed to Tolling Agreements to avoid litigation as we continue to work through these billing issues. On July 14, 2021, the City proposed a quick Mediation between the County and City to resolve these billing items without litigation. There is no current or past litigation between the County and City on this matter. The City continues to fulfill its monthly obligations and pays the Sheriff's department between \$500,000 - \$600,000, each month for contracted police services rendered.

It is of paramount importance that all parties involved work together collaboratively to reach a solution that provides necessary Police Services to the residents of Lathrop. We welcome and encourage a productive dialogue to address all of these issues and any other which may arise between now and June 30, 2022, in the spirit of public safety and fairness.

To this end, I request the Board of Supervisors:

- 1.) Deny early termination of the current contract for police services to allow for orderly transition beginning on July 1, 2022 but not before,
- 2.) Direct Sheriff Withrow to continue providing the City all police services included in the current contract which are fully funded in the City's adopted FY 21/22 budget, and
- 3.) Accept the City's offer to quickly Mediate the overhead payment issue and appoint a member or two of the Board to attend that Mediation. I would then ask the Council to match the number of appointed Board members by appointing one or two members of Council to attend the Mediation.

My hope is that our entities will be able to resolve all payment issues in a single day through the assistance of a professional Mediator.

Respectfully,



Sonny Dhaliwal, Mayor
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c: County Board of Supervisors
Lathrop City Council
Lathrop City Manager
Lathrop City Attorney
County Clerk of the Board for Public Comment on July 27, 2021 Agenda