



OFFICE OF THE DIRECTOR
OF POLICE ACCOUNTABILITY

APPROVED

POLICE ACCOUNTABILITY BOARD
REGULAR MEETING
MINUTES
(approved)

Tuesday, January 31, 2023, 6:30 P.M.

No physical location; the meeting was held exclusively through videoconference and teleconference.

1. CALL TO ORDER & ROLL CALL BY CHAIR MOORE AT 6:30 P.M.

Present: Board Member John Moore (Chair)
Board Member Kitty Calavita
Board Member Regina Harris
Board Member Juliet Leftwich
Board Member Deborah Levine
Board Member Cheryl Owens
Board Member Ismail Ramsey

Absent: None.

ODPA Staff: Hansel Aguilar, Director of Police Accountability
Beneba Thomas, DPA Investigator

BPD Staff: Cpt. Michael Durbin

2. APPROVAL OF AGENDA

Motion to approve the agenda.

Moved/Second (JL/KC) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Levine, Moore, and Owens.

Noes: None

Abstain: None

Absent: Ramsey

3. PUBLIC COMMENT

0 speakers.

4. APPROVAL OF MINUTES

Motion to approve Regular Meeting Minutes of January 11, 2023

Moved/Second (KC/RH): **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Levine, Moore, and Owens.

Noes: None

Abstain: None

Absent: Ramsey

- Board member Leftwich requested that ODPa staff include the specific questions and requests made by the Board to the CAO, BPD, or ODPa within the minutes.

5. ODPa STAFF REPORT

ODPa Staff / Director reported:

- Director Aguilar addresses Board member Leftwich's request and states that the ODPa is actively working towards compiling a list of those requests. He also informs the Board that ODPa staff is working to create a log that tracks all of the questions asked and their status
- Director Aguilar reports that the ODPa has created a log for the BPD with the pending request. This log includes the request, the charter authority that allows the said request, and deadlines.
- Board member Leftwich suggests that the ODPa provide the current log of requests so that the Board can help fill in any missing items.
- Board member Owens asks a question about the 10-day timeline for receiving requested documents/records and the application to other city departments, including the CAO. Deputy City Attorney Chang confirms that the timelines apply to records and document requests. Board member Owens asks for a follow-up regarding the contract for the independent investigator as it relates to the allegations to the BPD Downtown Task Force & Bike Unit allegations. Deputy City Attorney Chang states that he will forward that request to the individual responsible for that request.
- Director Aguilar provides an update on the Board's website. He informs the Board that the ODPa is working with the communications department to make changes to the website.
- Director Aguilar provides an update on the planning for the Board's retreat planning. He states that there will be a planning session and that the Board will be informed of the potential dates for the retreat at a later time.
- Director Aguilar provides an update on the status of the ODPa's search for a new space.
- Director Aguilar informs the Board of the details for the 2023 NACOLE annual conference & the newly formed California Civilian Oversight Alliance.

6. CHAIR AND BOARD MEMBERS' REPORTS

Chair Moore reported:

- Chair Moore thanks the Board, BPD, and ODPa Staff for the time, energy, and effort they put into their work.

7. CHIEF OF POLICE'S REPORT

Captain Durbin reported:

- No changes to staffing levels. The number of officers remains at 144 out of 181 with 4 in field training and 4 in the academy. Dispatcher staffing is also low with the current level at 20 out of 36. BPD is also in the process of a community service officer exam. These officers will be tasked with responding to lower levels. A recruitment and retention unit will be formed to help with recruitment.
- BPD continues to send officers to the 4-day crisis intervention training program in Oakland. The Interim Chief has directed all Lieutenants and Sergeants to attend the basic internal affairs investigation course.
- There are updates on the cases of interest and crime trends. The annual report to the council will be released soon on March 14th.
- Provides updates on policies currently being worked on by BPD. The audit on EWS is currently in process.
- BPD released a statement to the public regarding Tyre Nichols' death.

8. SUBCOMMITTEE REPORTS (DISCUSSION AND ACTION)

Report of activities and meeting scheduling for all Subcommittees, possible appointment of new members to all Subcommittees, and additional discussion and action as noted for specific Subcommittees:

- a. Policy and Practices relating to the Downtown Task Force and Bike Unit Allegations (Chair: Owens)
- Board member Owens, as the chair of the subcommittee, provides an update on the work of the subcommittee. She informs the Board that the subcommittee is still working out its approach to the policy review and its inclusion of members of the public.

9. OLD BUSINESS (DISCUSSION AND ACTION)

- a. Update on the discussion regarding future access to BPD Internal Affairs Bureau Reports and information (Calavita)
- Board member Calavita informs the Board that a memo and letter were sent to the Chief addressing the Board's request. The Director informs the Board that a response by the Chief has not been received but that the ODPa was informed of opposition to that request.
 - Board member Owens asks Deputy City Attorney what the remedy for non-compliance to document requests is. DCA Chang states that their office will look

into that and provide a memorandum. Board member Owens also inquires about the status of the proposed permanent regulations to which DCA Chang reports that feedback may be provided within the first half of February.

- Board member Calavita inquires about whose responsibility it would be to enforce charter violations.
- Board member Leftwich requested that the Board be allowed to have a closed session to discuss the feedback on the proposed permanent regulations and that the conflict of interest be formally addressed. DCA Chang states that a memo has already been provided addressing this issue and that the CAO will search for that memo and provide it to the Board. As to the regulations, DCA Chang states that the regulations subcommittee can meet in an informal setting to discuss the feedback on the permanent regulations.

10. NEW BUSINESS (DISCUSSION AND ACTION)

a. Nomination and election of PAB Chairperson and Vice-Chairperson

- Director Aguilar asks if there are any additional nominations for the role of chair. no additional nominations were made for the chair.
- Board member Moore, as the sole nominee for Chair, declines his two minutes to speak to receive questions from the Board.
- Board member Owens tells the Board that Board member Moore has done a good job as Chair and that she looks forward to the year ahead.

Motion for a roll call vote to elect Board Member Moore as the next Chair of the PAB.

Moved/Second (IR/KC) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Levine, Moore, Owens, and Ramsey.

Noes: None

Abstain: None

Absent: None

- Director Aguilar proceeds to the nomination and election of the PAB Vice-Chairperson.
- Board member Leftwich nominates Board member Harris for Vice Chair, Board member Owens seconds the nomination. Board member Harris accepts the nomination.
- Board member Calavita nominates Board member Owens for Vice Chair. Board member Owens respectfully declines the nomination.
- Board member Harris, as the sole nominee, accepts the nomination.

Motion for a roll call vote to elect Board Member Harris as the next Vice Chair of the PAB.

Moved/Second (KC/CO) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Levine, Moore, Owens, and Ramsey.

Noes: None

Abstain: None

Absent: None

- Chair Moore is re-elected as the PAB chair and Board member Harris is the new Vice Chair.

- b. Discussion regarding the possibility of bringing in Captain Bolton, a national consultant on Early Intervention Systems, to do a presentation.
 - Captain Bolton is an expert on Early Intervention Systems. He would give the PAB a presentation on EIS systems that would fit into the PAB's training.
 - Board member Calavita states that Captain Bolton has expressed interest. The Board request that the ODPa coordinates that presentation and invites BPD's Early Warning System coordinators to participate.

- c. Notice of potential topics of interest for future PAB review.
 - i. Budget Review Authority under Section 125(21) of the Charter
 - ii. Overtime Usage of BPD
 - The Board understands the importance of these topics. Regarding the topic of overtime, the city auditor discusses these topics. Concerning the review of BPD's budget, the Board is open to reviewing it during the next biannual proposal.

- d. In-Person Transition Plan and Meeting Places.
 - Director Aguilar provides the options for venues for the Board's in-person meetings. Director Aguilar proposes the idea of rotating the venue around the city.
 - Board member Ramsey states that he likes the idea of a rotating venue but is partial to the Judge Henry Ramsey Jr. South Berkeley Senior Center (the venue named after Board member Ramsey's father and used by the PRC in the past).
 - Board member Leftwich states that she prefers a location with a parking lot for convenience and safety reasons.
 - Board member Levine expresses her interest in the safety precautions related to addressing the Covid-19 pandemic. She would be interested in a venue that would allow us to take the proper precautions such as social distancing, proper ventilation, etc.
 - Board member Calavita expresses her preference for one location instead of a rotation to make sure it is easily accessible and avoid any confusion.

11. PUBLIC COMMENT

2 speakers.

CLOSED SESSION

Pursuant to the Court's order in Berkeley Police Association v. City of Berkeley, et al., Alameda County Superior Court Case No. 2002 057569, the Board will recess into closed session to discuss and take action on the following matter(s):

12. PRESENTATION OF RECOMMENDATIONS REGARDING CASE NO. 2488

Motion to administratively close Complaint No. 2488 and initiate a policy review.

Moved/Second (Owens/Harris) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Levine, Moore, Owens, and Ramsey.

Noes: None

Abstain: None

Absent: None

13. PRESENTATION OF RECOMMENDATION(S) REGARDING COMPLAINT NO. 17

Motion to administratively close Complaint No. 17 and continue with a policy review.

Moved/Second (Owens/Leftwich) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Levine, Moore, Owens, and Ramsey.

Noes: None

Abstain: None

Absent: None

14. CONTINUED PRESENTATION OF RECOMMENDATION(S) REGARDING COMPLAINT NO. 19

Motion to administratively close Complaint No. 19 and continue with a policy review.

Moved/Second (Owens/Calavita) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Levine, Moore, Owens, and Ramsey.

Noes: None

Abstain: None

Absent: None

15. PRESENTATION OF OBJECTION ACCEPTANCE FOR CASE NO. 21

Motion to accept objection for Case no. 21.

Moved/Second (Harris/Owens) **Motion Carried.**

Ayes: Calavita, Harris, Moore, Owens, and Ramsey.

Noes: None

Abstain: Leftwich, Levine

Absent: None

16. PENDING CASE UPDATES

END OF CLOSED SESSION

17. ANNOUNCEMENT OF CLOSED-SESSION ACTION

- Chair Moore announces the closed-session actions

18. ADJOURNMENT

Motion to adjourn the meeting.

Moved/Second (KC, CO) By general consent, the meeting was adjourned at 9:28 p.m.