



OFFICE OF THE DIRECTOR
OF POLICE ACCOUNTABILITY

POLICE ACCOUNTABILITY BOARD
REGULAR MEETING
MINUTES
(approved)

Wednesday, November 9, 2022, 7:00 P.M.

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

LAND ACKNOWLEDGEMENT

The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochochenyo (Chochochen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors, and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today.

1. CALL TO ORDER & ROLL CALL BY CHAIR MOORE AT 7:00 P.M.

Present: Board Member John Moore (Chair)
Board Member Nathan Mizell (Vice-Chair)
Board Member Kitty Calavita
Board Member Juliet Leftwich
Board Member Deborah Levine
Board Member Cheryl Owens
Board Member Ismail Ramsey

Absent: Board Member Regina Harris

ODPA Staff: Hansel Aguilar Director of Police Accountability
Beneba Thomas, DPA Investigator
Jose Murillo, Associate Management Analyst

BPD Staff: Cpt. Michael Durbin
Lt. Jen Tate

2. APPROVAL OF AGENDA

Motion to approve the agenda with changes.

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

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

Noes: None

Abstain: None

Absent: Harris

Changes: *Item 11.a tabled.*

3. PUBLIC COMMENT

5 speakers.

4. APPROVAL OF MINUTES

Motion to approve Regular Meeting Minutes of October 25, 2022 with revisions.

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

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

Noes: None

Abstain: None

Absent: Harris

Changes: *Typographical errors on items 4, 11.d., and 15. Changes to wording on item 11.d.*

5. ODPa STAFF REPORT

ODPA staff reported: Staff continues to work on the items mentioned in their last report, there are no major updates at this time. Staff also notes a new procedure for closed session that will allow members of the public to remain in the webinar.

6. CHAIR AND BOARD MEMBERS' REPORTS

Chair Moore makes note that some of the current board members may be leaving soon. He asks that the PAB, especially those who may depart soon, help in the recruitment efforts by bringing their status to the attention of their respective councilmember. This is important in order to ensure that we can fill vacancies in a timely manner.

Chair Moore also reports that on November 14th, he will participate in the "Shining the Light on The Militarization of Police Departments" forum.

Board member Leftwich provides an update as to the previously proposed social event.

7. CHIEF OF POLICE'S REPORT

- Captain Durbin provided an updated-on BPD's last report regarding the presence of drones at the September 10th, 2022 Solano Stroll event. He shared that new information found that drones were not flown over Berkeley airspace and that the Alameda County Sheriff's Office (ASCO) was there with the drones on a standby basis. The drones were used for two calls of service but they were not within Berkeley airspace. In recognition that BPD may want to use drones in the future, he notified the PAB that a policy will be coming to the Board for feedback in the coming weeks.
- Captain Durbin provided an update on the policies that are still to be converted to the Lexipol format and other policies of interest to the PAB.
- Captain Durbin reported that there is one new officer and one new communication manager at BPD. There is a draft proposal for a recruitment and incentive program pending review by the city manager.
- Updates on the arrest regarding the October 8th shooting near UC Berkeley and a shooting during a catalytic converter theft. There are also updates regarding firearms recovered within the city through a variety of methods.

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. Controlled Equipment Subcommittee. (Welcome more Board members to join.)

No significant updates.

- b. Police Chief Process (ad hoc) Subcommittee

Subcommittee will remain in place until the Police Chief is formally appointed.

9. OLD BUSINESS (discussion and action)

- a. Finalize review of draft proposed permanent regulations for Handling Investigations and Complaints.

Board members addressed and revisited comments and suggestion made during previous conversations regarding the permanent regulations. The PAB will reconvene at a later special meeting to vote of the final draft of the regulations. The following motion was made as part of their discussion:

Motion to add the concept of "Informal Complaints" to the permanent regulations as Section IV.

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

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

Noes: None

Abstain: None

Absent: Harris

10. NEW BUSINESS (discussion and action)

- a. Discussion on the review and recommendation process for the upcoming Surveillance Technology Ordinance and Drone Use Policy and Acquisition Report.

Motion to establish a subcommittee regarding the upcoming Surveillance Technology Ordinance and Drone Use Policy and Acquisition Report.

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

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

Noes: None

Abstain: None

Absent: Harris

- b. Discussion regarding the Berkeley Law Police Review Project Agreement.

Brief discussion regarding the Berkeley Law Police Review Project and its relationship with the PAB and ODP. ODP staff will plan a meeting with Berkeley Law faculty and students to discuss relevant topics.

11. ANNOUNCEMENT BY VICE-CHAIR MIZELL

- a. A brief announcement by Vice-Chair Mizell.

Tabled to a future meeting.

12. PUBLIC COMMENT

3 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):

13. PRESENTATION OF RECOMMENDATION(S) REGARDING COMPLAINT #20

Motion to set a hearing for Complaint #20.

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

Ayes: Calavita, Leftwich, Moore, and Owens

Noes: None Abstain: Levine, Ramsey Absent: Harris, Mizell

END OF CLOSED SESSION

14. ANNOUNCEMENT OF CLOSED SESSION ACTION

The Board voted to set a hearing for Complaint #20.

15. ADJOURNMENT

Motion to adjourn the meeting.

Moved/Second (Owens, Levine) **By general consent, the meeting was adjourned at 11:14 p.m.**