



Police Review Commission (PRC)

POLICE REVIEW COMMISSION
REGULAR MEETING
MINUTES
(Approved)

April 9, 2014
7:00 P.M.

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. CALL TO ORDER & ROLL CALL BY CHAIRPERSON SHERMAN AT 7:07 P.M.

Present: Chairperson Michael Sherman
Vice Chair Alison Bernstein
Commissioner Barbara Allen
Commissioner John Cardoza
Commissioner Karen Lowhurst
Commissioner George Perezvelez
Commissioner Kiran Shenoy
Commissioner Oliver Zerrudo

Absent: Commissioner Rogers

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Capt. Cynthia Harris (left approx. 7:30 p.m.), Lt. Randolph Files, Sgt. Katherine Smith

2. APPROVAL OF AGENDA

The agenda was approved by consensus.

3. PUBLIC COMMENT

There were three speakers.

4. APPROVAL OF MINUTES

Motion to approve minutes of March 26, 2014

Moved/Seconded (Perezvelez/Cardoza) **Motion Carried**

Ayes: Allen, Bernstein, Perezvelez, Shenoy, and Sherman.

Noes: None

Abstain: Cardoza, Lowhurst, Zerrudo

Absent: Rogers



5. CHIEF OF POLICE'S REPORT

Capt. Harris reported that a BPD officer was recently beaten when responding to a call, but is expected to make a full recovery. There are currently 166 sworn officers, with one resigning soon. A test is being given in May for entry-level and lateral hires. There are two vacant dispatcher positions.

6. OLD BUSINESS (discussion and action)

a. Regarding the factual innocence finding, the PRC Officer informed the Commission that a complaint regarding this case had been filed that afternoon, and that, therefore, the Commissioners could not discuss the specifics of that case. The Commission thus did not discuss item 6.a.2), and discussed the remaining items in the following order (numbers correspond to numbers on the agenda):

3) Review staff determination that a PRC complaint is beyond the one-year statute of limitations and possible redress by the public.

(The PRC Officer pointed out that the usual filing period is 90 days, and late-filed complaints are accepted up to 180 days, not one year, after the alleged misconduct.) Following discussion, Commissioners decided the issues raised could be discussed in the Regulations Subcommittee.

1) BPD policies on referring cases to the District Attorney for prosecution.

There was discussion and questioning of Lt. Files regarding The Commission decided to **carry this item over** for further discussion at the next meeting, with a request that the department return .with any written policies or procedures they rely on pertinent to making the decision to refer cases to the D.A. for prosecution.

4) Review role of the City Attorney in precluding matters from being agendized because of concerns regarding potential liability.

City Attorney's March 24, 2014 memo was discussed.

b. Recommendation to request additional information from the BPD related to reporting requirement under Berkeley Municipal Code section 12.24.070 on enforcement of marijuana laws in the City of Berkeley.

Motion to request a supplemental report from the Chief of Police addressing the five points described in Commissioner Bernstein's memo attached to today's agenda packet, for the six-month period ending December 31, 2013.

Moved/Seconded (Bernstein/Shenoy) **Motion Carried**

Ayes: Allen, Bernstein, Lowhurst, Perezvelez, Shenoy, Sherman, and Zerrudo.

Noes: None Abstain: Cardoza Absent: Rogers

c. Recommendations on proposed revisions to the PRC's Regulations.
This item was **continued** to the next regularly scheduled meeting.

d. Rescheduling of presentations by City Mental Health Division and BPD Crisis Intervention from April 23, 2014, to May 14, 2014 meeting.

By consensus, the Commissioners approved moving the meeting date and to agendize for the next meeting topics to provide to the speakers.

- e. Correction of clerical error in citation to Calif. Penal Code section 13519.4(f) in the proposed General Order B-4 (Fair and Impartial Policing), which Commission voted to recommend to the City Manager at its March 26, 2014 meeting.
Approved by consensus.
- f. Consider dissolution of Fair and Impartial Policing Subcommittee.
The Commission took **no action**.

7. NEW BUSINESS (discussion and action)

- a. Obtaining more complete and timely cooperation from the BPD in providing PRC investigators with copies of reports and interviews; and PRC's right to receive unredacted materials from the BPD.
Motion to have the PRC Officer write a letter to the City Attorney and Deputy City Manager asking what the barriers are to the PRC staff receiving BPD materials relevant to PRC investigations.
Moved/Seconded (Bernstein/Lowhurst) **Motion Carried**
Ayes: Allen, Bernstein, Cardoza, Lowhurst, Perezvelez, Shenoy, Sherman, and Zerrudo.
Noes: None Abstain: None Absent: Rogers
- b. Wearable video cameras for police officers: how to proceed on City Council's request to the PRC to investigate and report back on the usage of wearable video cameras.
 - **By consensus, the Commission agreed to establish a subcommittee for this purpose.**
 - Chairperson Sherman appointed the following Commissioners to the Wearable Video Cameras Subcommittee: Perezvelez, Cardoza, Allen, and Lowhurst.
 - The PRC Officer reported that the Deputy City Manager has suggested aiming for a report back to the City Council at its December 9, 2014 meeting, meaning it must be submitted to the City Clerk by October 16; the City Manager would like to see it by October 9.

8. SUBCOMMITTEE REPORTS & RECOMMENDATIONS (discussion and action)

- a. Accreditation Subcommittee
Subcommittee chair Perezvelez said they have not received any new policies for review in a while.
- b. Drone Subcommittee
Commissioner Sherman said he and members of the Peace & Justice Commission would be meeting before the Council Worksession on Drones, scheduled for 5:30 p.m. April 29, 2014.
- c. Regulations Subcommittee
The next meeting is scheduled for April 17, 2014 at 6:00 p.m.
- d. Fair and Impartial Policing Subcommittee
Nothing to report.

9. PRC OFFICER'S REPORT

There are 12 active complaints. Barbara Lipson of SEEDS will be making her presentation at the April 23, 2014 meeting. A *Caloca* appeal has been filed.

10. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Commissioner Cardoza asked that the topics of whether a Taser would have been useful in the recent incident and the BPDs view generally on the use of Tasers be agendized for the next meeting.

11. PUBLIC COMMENT

There was one speaker.

Closed Session

12. VOTE ON WHETHER TO ACCEPT LATE-FILED COMPLAINT.

Complaint # 2348 (continued from March 12 and March 26, 2014 meetings).

Motion to approve Late File as timely.

Moved/Seconded (Bernstein/Shenoy) **Motion Carried**

Ayes: Allen, Bernstein, Lowhurst, Perezvelez, Shenoy, Sherman, and Zerrudo.

Noes: None

Abstain: Cardoza

Absent: Rogers

End of Closed Session

13. ANNOUNCEMENT OF VOTE RESULTS FROM CLOSED SESSION

The Chair announced that the Commission voted to accepted the late-file in Complaint # 2348 by a vote of 7 ayes to 1 abstention (no noes and one absent).

14. ADJOURNMENT

Motion to adjourn this meeting.

Moved/Seconded (Bernstein/Shenoy) **Motion Carried**

Ayes: Allen, Bernstein, Cardoza, Lowhurst, Perezvelez, Shenoy, Sherman, and Zerrudo.

Noes: None

Abstain: None

Absent: Rogers

Meeting was adjourned at 9:30 p.m.