



Police Review Commission (PRC)

POLICE REVIEW COMMISSION
SPECIAL MEETING
MINUTES
(approved)

October 21, 2015
6:00 P.M.

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. CALL TO ORDER & ROLL CALL BY CHAIR BERNSTEIN AT 6:08 P.M.

Present: Commissioner Benjamin Bartlett
Commissioner Alison Bernstein (Chair)
Commissioner Jerry Javier
Commissioner George Lippman
Commissioner George Perezvelez (Vice Chair)
Commissioner Terry Roberts
Commissioner Ann Rogers
Commissioner Michael Sherman (arrived 6:30 p.m.)
Commissioner Ari Yampolsky (arrived 6:20 p.m.)

Absent: None

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Chief Michael Meehan (left 7:00 p.m.), Lt. Andrew Rateaver (left 9:00 p.m.), Lt. Dan Montgomery, Sgt. Veronica Rodrigues (left 8:40 p.m.), Sgt. Melanie Turner (left 8:40 p.m.)

2. APPROVAL OF AGENDA

Commissioner Rogers requested permission to speak following approval of the minutes.

The agenda, including the above request, was approved by general consent.

3. PUBLIC COMMENT

There were 9 speakers.

4. APPROVAL OF MINUTES

On the special meeting minutes of October 8, 2015, a correction was made to reflect the maker (Rogers) and seconder (Bernstein) of the motion in New Business Item 8.b.

The minutes of the October 8, 2015, as amended, were approved by general consent

Commissioner Rogers announced that she is resigning effective November 9, 2015. She is serving on a BOI October 26 and 28, and this is her last Commission meeting.

5. CHIEF OF POLICE'S REPORT

The Chief thanked Commissioner Rogers for her service.

He reported that, following a record low year of crime last year, we are continuing to see violent crime and property crime increase this year, but starting to turn. Of the authorized 176 sworn officers, staffing is currently at 171.

The Chief was asked about the revised Right to Watch policy; costs associated with recommendations in the PRC's investigative report; how the new beats have affected response times; and recent attempted abductions of young girls.

6. OLD BUSINESS (discussion and action)

- a. Consider the Mutual Aid Pacts Subcommittee's recommendation that the PRC urge the Council to end participation in the Urban Shield exercise funded under the Urban Area Security Initiative (UASI) program.

By general consent, the rules were suspended to allow BPD representatives and two public members to speak, and for Commissioners to ask them questions.

Motion to recommend, as an alternative to the Mutual Aid Pacts Subcommittee's recommendation: the Berkeley PRC continues to support BPD's involvement in Urban Shield, but it asks BPD to work with the PRC to decrease militarization, and encourages BPD to do outreach to the community to explain the benefits of Urban Shield.

Moved/Seconded (Rogers/Sherman) **Motion Carried**

Ayes: Bartlett, Bernstein, Perezvelez, Roberts, Rogers, and Yampolsky.

Noes: Javier, Lippman

Abstain: Sherman

Absent: None

Before the above vote, the following actions were taken:

Motion to *consider* a substitute motion to recommend that Council support the BPD's participation in Urban Shield but, in light of militarization concerns, ask BPD to refrain from participating for one year, and take that time to explain to the community the value of Urban Shield, and review and take corrective measures to prevent hyper-militarization of the BPD.

Moved/Seconded (Bartlett/Lippman) **Motion Carried**

Ayes: Bartlett, Javier, Lippman, Roberts, and Sherman.
Noes: Bernstein, Perezvelez, Rogers, and Yampolsky.
Abstain: None Absent: None

Motion to *adopt* the substitute motion.

Moved/Seconded (Bartlett/Lippman) **Motion Failed**

Ayes: Bartlett, Javier, Lippman, and Sherman
Noes: Bernstein, Perezvelez, Roberts, Rogers, and Yampolsky.
Abstain: None Absent: None

- b. Policy investigation regarding the events of December 6, 7, and 8, 2014, and Council directive for an investigation into the events of December 6, as both are more fully identified in the regular meeting agenda of February 25, 2015; and including review of mutual aid practices and policies.
 - i) Discuss and approve “Discussion” section of report

By general consent, the Commission approved suggested changes to the draft Discussion section (handout #4, containing revisions from Commissioners Roberts and Bernstein):

All of Commissioner Bernstein’s changes were approved.

Commissioner Roberts’ changes were approved except that p. 1, lines 23-25, p. 7 lines 28-33, and p. 8 lines 1-19 were not; and p. 3 line 10-11, and p. 4 lines 22-25 were revised.

The Conclusion (p. 8, lines 21-30) will be moved to the very end of the report.

By general consent, the Commission approved suggested changes on Commissioner Lippman’s Discussion section (handout #5), except:

P. GL-3 lines 16 & 17, p. GL-4 lines 24-25, p. GL-5 line 6, and p. GL-6, line 27 were not; p. GL-3 lines 6-7 and p. GL-6 lines 13-14 were revised; and p. GL-5 lines 13-16 to be revised by staff to correct the quote.

Motion to change p. GL-3, sentence starting on line 20 to begin, “Given the existing record, the use of CS gas appears arbitrary, . . .”

Moved/Seconded (Lippman/Sherman) **Motion Failed**

Ayes: Bartlett, Javier, Lippman, and Sherman.
Noes: Bernstein, Perezvelez, Roberts, Rogers, and Yampolsky.
Abstain: None Absent: None

By general consent the Commissioners agreed to place the “Get ‘um running” quote in the Findings, not the Discussion section; PRC staff to determine exact placement.

Motion to approve the Discussion section with revisions as approved above.

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

Ayes: Bartlett, Bernstein, Javier, Lippman, Perezvelez, Roberts, Rogers, Sherman, and Yampolsky.

Noes: None

Abstain: None

Absent: None

ii) Discuss and approve any remaining aspects of report.

a) Recommendations

Motion to approve the introductory paragraph to the Recommendations as written.

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

Ayes: Bartlett, Bernstein, Javier, Lippman, Perezvelez, Roberts, Rogers, Sherman, and Yampolsky.

Noes: None

Abstain: None

Absent: None

b) Introduction

Motion to reopen the Introduction for revisions.

Moved/Seconded (Lippman/Sherman) **Motion Carried**

Ayes: Bartlett, Javier, Lippman, Roberts, Sherman, and Yampolsky.

Noes: Bernstein, Perezvelez Abstain: Rogers Absent: None

(The version of the Introduction being discussed was handout #1 (“G. Lippman revisions, pages 1 & 3 only”).)

Motion to delete, on page 1, 1st paragraph, 2nd sentence, the phrase beginning, “unfortunately” through the end of the sentence.

Moved/Seconded (Lippman/Sherman) **Motion Failed**

Ayes: Lippman, Sherman.

Noes: Bartlett, Bernstein, Perezvelez, Roberts, Rogers, and Yampolsky.

Abstain: Javier

Absent: None

Motion to replace the above-discussed phrase beginning “unfortunately” with the following: “the peaceful resolve of the vast majority of demonstrators was undermined both by violent individuals in the crowd and by tactics employed by the Berkeley Police Department.”

Moved/Seconded (Lippman/Sherman) **Motion Carried**

Ayes: Bartlett, Bernstein, Javier, Lippman, Roberts, Rogers, Sherman, and Yampolsky.

Noes: Perezvelez

Abstain: None

Absent: None

By general consent, the Commissioners agreed to: capitalize Black in the first sentence on page 1; replace on page 3, 1st full paragraph, 2nd sentence, the language following “unsure” to “which departments are

involved.”; and on page 3, 2nd full paragraph, use the phrase “up to 1500” in describing the crowd size.

Motion to approve the Introduction as revised.

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

Ayes: Bartlett, Bernstein, Javier, Lippman, Perezvelez, Roberts, Rogers, Sherman, and Yampolsky.

Noes: None

Abstain: None

Absent: None

c) Minority Report

By general consent, the Commission asked staff to request an opinion from the City Attorney about whether a currently sitting commissioner may vote for a recommendation in the minority report when a predecessor in their seat, whether permanent or temporary, voted for the majority’s recommendation. The votes to be taken on the minority report may be revised depending on the answer.

The Commissioners reviewed the Recommendations on the Minority Report (handout #7) and signed on as follows:

Recommendations #18 and #22 (CS gas), were combined on the report but at the meeting, #18 was deleted and Commissioners Bartlett, Lippman, and Sherman signed onto the minority opinion for #22.

Recommendation #29 (media credentialing): No one signed on.

Recommendation #31 (video surveillance): Bartlett, Lippman, Sherman signed on

Recommendation on mutual aid: Bartlett, Lippman signed on.

By general consent, the Commission agreed that the recommendations of the minority report should remain together, at the end of the report; and staff may remove redundant language and reformat it consistent with the rest of the report.

d) Full report

By general consent, the Commission authorized staff to correct typographical and grammatical errors found as the final report is finalized.

Motion to approve the full Investigative Report.

Moved/Seconded (Rogers/Lippman) **Motion Carried**

Ayes: Bartlett, Bernstein, Javier, Lippman, Perezvelez, Roberts, Rogers, Sherman, and Yampolsky.

Noes: None

Abstain: None

Absent: None

- iii) Authorize the Chairperson to represent the PRC before the City Council when the investigative report is presented.

By general consent, the Commission authorized the Chair and the Vice-chair to represent the PRC before the City Council when the investigative report is presented (currently scheduled for the December 1, 2015 meeting).

7. NEW BUSINESS (discussion and action)

Authorize the Chairperson to represent the PRC before the City Council when amendments to BPD General Order N-17, Suspicious Activity Reporting, are considered (currently on the October 27, 2015 agenda.)

By general consent, the Commission authorized the Chair to represent the PRC before the City Council regarding the PRC's amendments to BPD General Order N-17.

8. CHAIR'S REPORT

None.

9. PRC OFFICER'S REPORT

None.

10. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

11. PUBLIC COMMENT

There were no speakers.

12. ADJOURNMENT

Motion to adjourn the meeting carried by general consent.

Meeting was adjourned at 11:00 p.m.