



Police Review Commission

POLICE REVIEW COMMISSION REGULAR MEETING MINUTES

Tuesday, April 7, 2009
7:00 P.M.

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. CALL TO ORDER BY CHAIRPERSON SHERRY SMITH AT 7:00 p.m.

ROLL CALL AND ATTENDANCE

Present: Chairperson Sherry Smith
Commissioner Russell Bloom
Commissioner Vonnie Gurgin
Commissioner Jonathan Huang
Commissioner Michael Sherman

Absent: Vice Chair George Perezvelez
Commissioner Kamau Edwards
Commissioner Sharon Kidd
Commissioner William White

PRC Staff: Nancy Perez, PRC Intern

BPD Staff: Lt. Files
Sgt. Wilson
Ofc. Wellington

1. ORDER OF AGENDA

There were no changes to the order of the agenda.

2. APPROVAL OF MINUTES

A. Regular Meeting: March 25, 2009

Motion to approve minutes. M/S/C (Gurgin/ Bloom) Motion carried.

Ayes: Bloom, Gurgin, Sherman, and Smith.

Noes: None. Abstain: Huang. Absent: Edwards, Kidd, Perezvelez, and White.

3. NEW BUSINESS

Postponed until next meeting.

A. Discussion of officer interviews for investigations, issues around cancellations and ways to address officer unavailability.

a. Staff report



Postponed until next meeting.

- b. Commissioner Bloom
Postponed until next meeting.

5. OLD BUSINESS

- A. Discuss BART officer-involved shooting and determine whether Commission should recommend to City Council that a letter be sent to BART Board of Directors offering the Commission's assistance in creating a civilian police oversight agency.
 - a. Update from Commissioner Sherman on proposed state legislation.
Commissioner Smith stated that the handout by Senator Leland Yee and Tom Ammiano explained what Commissioner Sherman would have told them.

Commissioner Sherman read an email he received from Assemblyman Ammiano's legislative aid, asking Commissions to support AB312. He also provided a contact for the legislative aid: (916) 319- 2013. Commissioner Sherman also stated that on Tuesday, April 14, 2009, at 9:00 a.m., the Public Safety Committee will have hearings on this bill.

- b. The City Council adopted a resolution on March 24 to support adoption of AB312: to establish an office of citizen complaints for BART Police Department.
Commissioner Sherman stated that since the City already adopted support for AB312, the Police Review Commission should also adopt a resolution of support for the bill.

Chairperson Smith stated that the support from the PRC would be redundant since City Council already adopted support for AB312. She suggested that if Commissioner Sherman attend the Public Safety meeting, then he should bring a copy of the City Council's resolution of support.

Commissioner Sherman stated that he would go to the city clerk's office and get copies of the resolution and attempt to attend the meeting.

6. PUBLIC COMMENT:

Mr. Wellington commented on New Business, Item A on the agenda. As the representative of the Berkeley Police Association, he believes that the agenda item is inappropriate for discussion in this forum. He stated that assurance of officer availability is a management matter that is best addressed through appropriate channels through the City. Mr. Wellington stated that by contract and law, all of BPA members are required to participate, provide testimony, and required to appear under direction of the Chief of Police and the City Manager's Office. Any matter concerning officer availability should be addressed through those supervisory channels.

Chairperson Smith stated that Ms. Urbi could contact the City Attorney's Office to find out if the Commission can pursue this as an agenda item or if this needs to be strictly at the supervisory level.

Commissioner Bloom stated that to a degree, the item is appropriate for discussion with regard to the Commission's ability to complete investigations in a timely manner. He asked, "What is meant by supervisory channels?"

Lieutenant Files commented that officers are mandated to attend PRC interviews. He stated that regulations are already in place to ensure officer cooperation. Lt. Files stated that if officers are mandated to be at the PRC, they will be there, as mandated by policy and if they are not present, they are subject to discipline.

Commissioner Bloom stated that the agenda item was not trying to find a means of compelling appearance, but rather to discuss how to continue investigations in the face of officer unavailability.

Mr. Wellington stated that addressing unavailability through supervisory channels simply means that there are already established protocols for mandating officer interviews. Mr. Wellington showed a copy of the directive order, which is a form that is used to notify the officers of their requirement to appear at an interview and/or a Board of Inquiry. Failure to comply makes the officer subject to discipline for insubordination and that is the appropriate channel by which questions of availability should be addressed and not by public discussion.

Chairperson Smith asked Commissioner Bloom to contact Ms. Urbi to find out if the Commission should continue the discussion.

7. PRC OFFICER'S REPORT (For Discussion or Action)

- A. Status of complaints
Postponed until next meeting.
- B. Hearings: Officer-Involved Shooting Hearing on April 13.
Chairperson Smith reminded the Commission that the hearing will start at 6:00 p.m. and that she and Commissioner Bloom will question the subject officer. She stated that questions regarding the hearing should be sent to Victoria Urbi.
- C. Commissioner update
Postponed until next meeting.
- D. Comments:
There were no comments.

8. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT

Lieutenant Files stated that there was no report from Chief Hambleton.

9. COMMITTEE REPORTS (For Discussion or Action)

- A. Regulations Review Policy Subcommittee (Bloom, Kidd, Perezvelez, Sherman)
 - a. Next meeting: April 20, 6:00 p.m. at South Berkeley Senior Center.
The date might change to April 29th, but Commissioner Bloom is still awaiting a response from two other Commissioners.

10. COMMUNICATIONS

- A. Attached.

11. ADJOURNMENT

Meeting was adjourned at 7:23 p.m.