



Police Review Commission

## POLICE REVIEW COMMISSION REGULAR MEETING MINUTES

Wednesday, September 2, 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  
Vice Chair George Perezvelez  
Commissioner Russell Bloom  
Commissioner Vonnie Gurgin  
Commissioner Jonathan Huang  
Commissioner Sharon Kidd  
Commissioner Michael Sherman

Absent: Commissioner Kamau Edwards, Commissioner William White

PRC Staff: Victoria Urbi, PRC Officer

BPD Staff: Lt. Files, Officer Wellington

### 2. ORDER OF AGENDA

If complainants arrived for late file, the Commission would move the late file agenda items to hear the complainants.

### 3. PUBLIC COMMENT: *Speakers are generally allotted up to three minutes. To ensure adequate time for action items on the Agenda, the Commission may limit the number of public speakers during the public comment period.*

None.



**4. APPROVAL OF MINUTES**

A. Regular Meeting: July 22, 2009

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

**Ayes:** Bloom, Gurgin, Huang, Kidd, Perezvelez.

**Noes:** None. **Abstain:** Smith, Sherman. **Absent:** Edwards, White.

Chairperson Smith stated that under Item #4, Approval of Minutes, it stated, "Motion carried/failed," and that "failed" should be deleted.

**5. NEW BUSINESS**

A. Discuss the requirements of a personnel matter and what can be discussed legally in a closed session meeting.

- a. Staff report: Lisa Caronna, Deputy City Manager, stated that the City Council hires the City Manager (CM) and all employees of the City are under the general direction of the City Manager, which is in the Berkeley Municipal Code. All commissions, including the PRC, are not to discuss personnel matters, because this is not within their purview. If there is a complaint against a City employee, the complaint should be directed to the CM's Office and it will be investigated. This was outlined in a letter Ms. Caronna sent to the Commissioners.

Since the letter from Justin Buffington was regarding a personnel matter, the Commission could not discuss the letter. If a Commissioner wanted to discuss the process for findings reports or investigative reports that should be put on the agenda, but the topic cannot be regarding Mr. Buffington's letter.

- b. Commission discussion

Commissioner Bloom stated the findings report should accurately reflect the facts and he wanted to review it to determine whether it was accurate.

Commissioner Perezvelez stated that the findings report was provided to the Commissioners for review and approval. The Commission already approved it. He pointed out that there are two different interpretations and it would be disingenuous to go back again and change the report.

Commissioner Gurgin stated the letter is outside the commission's purview.

Commission Smith stated that by discussing the findings report, it is similar to re-opening the board of inquiry.

Ms. Caronna stated that if the commission wants to put something on the agenda to discuss a record, that could be an agenda item, but tying it to the allegations of the letter is not appropriate. She reiterated that the commission could not discuss the letter.

**Motion to place on the agenda the Anita Gay Findings Report to review whether there are factual inaccuracies in the report. M/S/C (Bloom/Kidd). Motion failed.**

**Ayes:** Bloom, Kidd. **Noes:** Gurgin, Huang, Perezvelez, Smith. **Abstain:** Sherman.

**Absent:** Edwards, White.

- B.** Discuss confidentiality requirements at board of inquiry deliberations.
  - a. Chair Smith's update: Chair Smith stated that the most important piece was that a commissioner/s breached their oath of confidentiality by revealing information to an outsider regarding the Commission's deliberations, which are confidential personnel discussions. She stated that Mr. Buffington wrote, "I have on good authority" and proceeds to reveal something that happened during deliberations. She stated that this is a violation of the oath of confidentiality and commissioners should be reminded that deliberations are confidential.

- b. Commission discussion

Ms. Caronna reminded the Commission that they could not discuss the letter.

## **6. OLD BUSINESS**

### **A. Presentation: 2008 Annual Report**

- a. Staff presented the annual report, discussed complaint trends, new features and highlighted the Commission's work. Staff also thanked PRC staff, especially Maritza Martinez for all the work she put into updating the charts, working on the data and going over the final details of the report. Barbara Mann and Rebecca Webb helped with the review, graphs and charts. And the newest staff member, Mary Matambanadzo assisted with the Power Point presentation.

### **B. Commission Retreat**

- a. Staff update - Saturday, October 24, 9:30 A.M. – 1:30 P.M. at Berkeley Yacht Club, One Seawall Drive (Berkeley Marina). The date has been confirmed. Commissioner White is unable to attend. Chair Smith has worked with PRC staff on the agenda.

### **C. BPD's Ride-along program**

- a. Commissioner Bloom stated the experience was very rewarding and thanked Officer Perkins for sharing her experiences. He encouraged other commissioners to do a ride-along and if they have already done one, to do it again in order to have continuous training.

### **D. BART'S civilian oversight board**

- a. Commissioner White's update: Commissioner White was absent, so this item was moved to the next meeting.

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

- A. Hearing update: the next hearings were scheduled on September 30 and October 6. Staff provided the Commission with a Calendar of meetings for September through October.
- B. Status of complaints: 20
- C. Investigator position open: the job announcement was available in the agenda packet. The last day to apply is on September 14.
- D. National Association for Civilian Oversight of Law Enforcement Conference (NACOLE): October 31 –November 3 at Austin, Texas. Commissioner Kidd stated she would be attending with the commissioners from Richmond.
- E. Comments: None.

**8. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT**

Report by Lt. Files on behalf of Chief Hambleton. BPD recently hired two level officers from UCPD. BPD announced the Chief’s retirement. The oral panel for the Chief selection will continue next week.

**9. COMMITTEE REPORTS (For Discussion or Action)**

- A. Officer-Involved Shooting Subcommittee: the subcommittee was in the process of reviewing BPD’s comments from the policy recommendations. The subcommittee will decide whether there needs to be more revisions and then meet with BPD in October.
- B. Regulations Review Subcommittee: the next meeting was scheduled on October 21.
- C. Search of Homes Subcommittee: the next meeting was scheduled on September 9.
- D. Mutual Aid Subcommittee: the next meeting was scheduled on September 16.

**10. COMMUNICATIONS**

- A. Attached.  
Commissioner Perezvelez asked about General Order #A-1 and requested to put it as an agenda item for the next meeting.

**11. PUBLIC COMMENT:** None.

**Closed Session**

**The Police Review Commission recessed into closed session to discuss and take action on the following items:**

**12. LATE FILE PETITION**

- A. Case No. 2234 – Complainant Joel Baker  
**Motion to approve Late File as timely. Motion failed. Vote was by consensus.**  
**Absent:** Edwards, White.
- B. Case No. 2236 – Complainant Richard McClain  
**Motion to approve Late File as timely. (Bloom/Kidd) Motion carried.**  
**Ayes:** Bloom, Gurgin, Huang, Kidd, Sherman.  
**Noes:** None. **Abstain:** Smith, Perezvelez. **Absent:** Edwards, White.

**13. ADJOURNMENT**

Meeting was adjourned at 9:30.