

ATTACHMENT 1

**CITIZENS' POLICE REVIEW BOARD
MEETING OF THURSDAY, September 24, 2015 – 6:15 P.M.
City Council Chambers - Third Floor**

I. CALL TO ORDER BY CHAIR MAO at 6:21 P.M.

II. ROLL CALL AND ATTENDANCE

Present: Chair Sokhom Mao
Commissioner Brian Bingham
Commissioner Lawrence Brisco
Commissioner Thomas Cameron
Commissioner Charlette Green
Commissioner Ramon Nasol
Commissioner Howard Tevelson

Meredith Brown, Board Counsel

Joan Saupe, CPRB Investigator
Nikki Greer, CPRB Investigator
Andrew Lee, CPRB Investigator

Excused: Vice-Chair Chris Brown
Karen Tom, CPRB Investigator

Absent: Commissioner Erica Harris
Commissioner Mya Whitaker
Commissioner Almaz Yihdego

III. APPROVAL OF MINUTES – ACTION ITEM

A. September 10, 2015

Rashidah Grinage came to speak and gave public comment. Chair Mao reported that he, Director Finnell and Board Counsel met on the best way to proceed on the public comments and making sure that we capture everything the public says, that it is recorded and provided in writing.

Chair Mao asked Board Counsel Brown to report on their discussion regarding this matter. Board Counsel Brown reported that there is an approach that we are going to implement/put forth on a trial basis through the Executive Director to have the synopsis of the general subject matter of the discussion in brief under the name of the person who made the comment. It has not been implemented yet since she was away last week and we have just been resuming with our two meetings this week. We will be working on the matter and there should be a new format presented under the direction of the Executive Director and Board Chair.

Director Finnell reported that he was not at the last meeting and he did review the video. He understands the public's desire and the issues the public has raised and to the minutes. One way obviously to approach this is that there are different options and one option was to follow the lead of other commissions and counsels in the City where they do not list the content of the public in open forum and they do not list specifics because it is recorded and captured on the recording. We do not feel that is a good option, but it is one. The other option, the other extreme, is to capture everything a person says and that is not a good option either. Director Finnell, Board Counsel and Board Chair met and discussed an option to try and institute where the speaker will be identified and a couple of sentences about what was said will be listed and it will not be listed in great detail. That way everyone/speakers, will be documented in the minutes and the nature of their comments will be listed but not specifics. It is an option we are looking at. That way it is captured completely on the video and should we need to reference it then we know which video to pull to actually get what was actually said and we will always have the record of what the person said. Director Finnell stated that he has explained this before that with the increased demand on the responsibilities of our office assistant - she manages all the paperwork of the office and the Board and it is a very demanding position; he is not going to get another person to assist her at this time because it is not in our budget. We are trying a way to accommodate to the desires of the community and also document appropriately the items that are discussed here in writing as well as do the recording.

A motion was made by Commissioner Tevelson to approve the minutes with an amendment that CPRB Investigator Joan Saupe be added to the excused Roll Call/Attendance Item II. Commissioner Bingham seconded. The Board voted unanimously.

IV. OPEN FORUM

Chair Mao stated that the speaker has two minutes to speak. There was one speaker (Rashidah Grinage).

Rashidah Grinage spoke on Alternate Board Members and why it is not working. She mentioned that tonight is an Evidentiary Hearing and there are seven board members instead of nine and need five people to sustain – that is five out of seven rather than five out of nine. That is why you have alternates, that when you have a hearing you can fill up nine seats - it looks like that is not working. The point of having three alternates is so that when you have a hearing you have nine people and that a five vote to sustain simply means a simple majority of those present. In this circumstance, you need an overwhelming majority of those present to sustain and that is not fair to the complainant. She is not sure what the issue is and hopes that it gets worked out.

Rashidah Grinage announced that the Coalition for Police Accountability is hosting a town hall facilitated discussion on October 11, 2015 at 2:00 p.m. at Allen Temple Baptist Church to discuss the issue of what happens after the negotiated settlement agreement is vacated, the judge goes away, the monitor goes away, etc. and how do we make sure that the reforms are sustained. Jim Chanin, Joe Marshall, Reverend Mike McBride, and Pat Brooks will be in attendance. They are hoping for a great turn out. Ms. Grinage asked Chair Mao to forward the event registration to the Commissioners and look forward to

having them attend and participate. There will be a question and answer opportunity after the panelists present.

Chair Mao asked that Item VI. (Agenda Discussion) precede Item V. (Director's Report). Director Finnell agreed to the agenda change.

V. AGENDA DISCUSSION

Chair Mao said that a topic of discussion is communication. Communication was discussed at the special meeting on October 23 (Board members and emails). Chair Mao made it clear that it is for information distribution only and is not a time where Commissioners have email exchanges.

Board Counsel Brown reported that at yesterday's Bylaws meeting we discussed the Brown Act guidelines regarding communication between the Board. The Brown Act has as its purpose the transparency of the business that is conducted on behalf of the public and because of that, if there is a communication between board members that is deliberation or could be construed as deliberation or a discussion that is leading to a decision regarding an action, then all of those things must be had at a regularly noticed public meeting. For that reason, we had talked about curtailing the emails between commissioners so that there is not an exchange of information thoughts, ideas - that the information between board members would go through the Chair to the Executive Director or directly to the Executive Director so that the commissioners were not emailing amongst themselves but were actually getting the information disseminated through an appropriate means which would be the agenda or some updated report from the Executive Director.

Chair Mao spoke about public decorum. We owe it to the public to make sure that this body demonstrates good public decorum. It is important that when we are in a formal meeting to make sure that every Commissioner addresses each other by their title. It is important that this body demonstrate a level of professionalism. It is customary that we thank each other when we speak. This is all part of Roberts Rules of Order and we will continue to reinforce that if need be. Board Counsel Brown was in Washington, D.C. recently and received a gift of the Roberts Rules of Order; Chair Mao thanked Board Counsel for the gift.

Chair Mao addressed board attendance. It is very important to attend all meetings and actively participate. We heard from the public and the reason we have alternates is to ensure that we have more members than we need in order to have quorum and deliberations. Chair Mao will continue to repeat/echo the importance of this issue.

Board Counsel Brown reported on a question raised regarding the qualifications for office. In the Constitution of the State of California, there is a statement that a board member can be removed from office for the commission of any number of enumerated offenses but they all deal with a breach of public trust – bribery, a felony using your influence to change/suppress a vote. Those types of conduct which are specifically stated in the California Constitution are cause for not only forfeiting your office but also disqualify you from office. There are other felonies that are under the Penal Code but those are not felonies that are enumerated by the Constitution of the State of California as disqualifying you from office and that is important to note. You can have a felony

conviction for exercising civil disobedience in a place where there is a national bank, ways you can be convicted of a felony but don't parallel the breach of public trust that's enumerated in the California Constitution. It is also mentioned in Section 20 of the Election Code and it's also restated in the Government Code. The question here that has arisen is whether a board member can be disqualified from office or removed from office for misconduct. Misconduct can be the dereliction of duty in office and that is a discretionary matter that would be taken up by the board – a case law on that particular subject involved the failure to set fees for utilities or for public services in a matter that was seen as responsible (very old case) but what it does show us is that if you are a member of a body that has a certain duty to perform in terms of public service and your colleagues feel that you have not maintained your performance level to the standard that is required to carry out your duty, they can meet and discuss whether or not you are fit for office and if the majority of them vote, you can be removed from office. With respect to this body and the Bylaws, there is a section in the City Charter 601 that states that the Board may suggest or recommend a member for removal upon a vote of the board and then it would go to the City Council. That is how the matter of disqualification from office, removal from office for misconduct has arisen – it is malfeasance, misfeasance and misconduct in general.

Chair Mao inquired about unlawfulness or acts of violation of the law. Board Counsel Brown reported that the only violation of the law that is specifically stated rising to the level of disqualification of office are those that deal directly with a breach of public trust and that would be a bribery, suppression of a vote, something that would deal with using your office for public gain or something that would be listed – there are enumerated offenses in the California Constitution. Illegal activity or misconduct in general would have to be evaluated by the board and it would have to be something that occurred while you were in office and that the board felt was something that caused you to not be fit to fulfill your obligation as a board member.

Chair Mao asked if there were questions and there were none.

VI. DIRECTOR'S REPORT

A. Announcements

Director Finnell asked members to review Attachment 2 in the Agenda Meeting Packet (Status Update: Consolidation of Intake Technicians). Director Finnell reported that he began the process of hiring the Intake Technicians last Thursday and Friday. He was given names to begin interviewing. He noticed that the names they provided were names of candidates that were on the current list of Intake Technician with OPD. He contacted HR and said that he needs his own process because those candidates when they applied months ago believed that they would be working for OPD. We are now starting a fresh process to recruit and hire Intake Technicians that have a clear understanding of the Job Description and that they will be working for the CPRB and not OPD. It may put us behind a few weeks but we are pushing forward with the timeline that was originally set.

Director Finnell reported that he is working with the IT Department to develop a new data collection process. Our current data process is antiquated and is not sufficient for the needs we are going to have.

Director Finnell advised the board of a personnel change. Investigator Urbi is no longer employed with the CPRB. He had to make a personnel decision. Her cases have been reassigned to the other four investigators. He is working with HR and will begin to fill that position in a few weeks.

We are still doing the meet and confer process with OPD and Employee Relations.

He announced that he and Investigator Greer will be attending the NACOLE Annual Conference in Riverside, California (October 4 – October 8). The board meeting scheduled for Oct 8 is cancelled. The next board meeting is October 22.

Director Finnell gave an update of an outreach event held on September 22; his presentation to the South Hills NCPC. One of the questions raised was what is the CPRB doing to engage the youth. He spoke about the collaboration that we had with Project Back and out of that discussion there was a member in the community that is connected with Castlemont High School and they suggested that we try and take that project back into Castlemont also; he has reached out to the other members that have collaborated with us and they are going to work to make that happen. We are going to be part of that collaboration again this school year to reach out to the youth and bring the youth back in and meet with the police like we did last year. We may work with two schools - Castlemont High School and Alternatives In Action High School.

B. Pending Cases as of September 18, 2015

Director Finnell reported that as of September 24, 2015, there are 108 CPRB cases: 97 are active cases, 3 cases pending closure, 8 tolled cases, and 1 Evidentiary Hearing Case #15-0218/Scheduled for September 24, 2015 – this evening (included in active cases total). Since the last report was given on September 10, 2015, ten new cases have been added.

VII. CLOSED SESSION: NEW BUSINESS (Convened at 7:06 p.m.)

A. Cases proposed for Administrative Closure / Pursuant to Ordinance No. 12454 C.M.S. section 6, paragraph G subsection 9, hearing would not facilitate the fact-finding process and that no good cause is shown for further action.

1. Based on the findings of the investigation

Case No. 14-0966, Frank White

- a. Complainant's Comment
- b. Staff Report
- c. Discussion
- d. Action

Complainant alleges OPD officers improperly entered the home of his aunt without legal authority.

B. EVIDENTIARY HEARING, CPRB Case #15-0218, Complainant Desley Brooks
(Investigator N. Greer)

Began at 7:33 p.m.

1. PUBLIC COMMENT PRIOR TO THE COMMENCEMENT OF THE
CLOSED HEARING

Chair Mao announced the hearing would be closed to individuals other than
the complainant, subject officers and legal representatives.

2. CLOSED HEARING

3. CLOSED SESSION DELIBERATIONS (Began at 9:20 p.m.)

C. Pending Cases for Administrative Hearing Discussion

The Item was not discussed.

The Board reconvened open session at 10:35 p.m.

VIII. OPEN SESSION DISCLOSURE OF NON-CONFIDENTIAL CLOSED SESSION
MATTERS.

BY MOTION AND VOTE IN OPEN SESSION, BOARD ELECTS EITHER TO
DISCLOSE NONCONFIDENTIAL INFORMATION OR TO DISCLOSE
CONFIDENTIAL INFORMATION THAT THE MAJORITY DEEM TO BE IN
THE PUBLIC INTEREST.

IX. ADJOURNMENT

The Board adjourned at 10:36 p.m.