

MAY 6, 2009

REGULAR MEETING

The Police Commission of the City and County of San Francisco met in Room 400, City Hall, #1 Dr. Carlton B. Goodlett Place, San Francisco, at 5:20 p.m., in a Regular Meeting.

PRESENT: Commissioners Sparks, Marshall, Lee, Mazzucco, Onek, Pan
ABSENT: Commissioner DeJesus
(Commissioner Lee arrived at 5:36 p.m.)

PUBLIC COMMENT ON ALL MATTERS PERTAINING TO CLOSED SESSION

None

VOTE ON WHETHER TO HOLD CLOSED SESSION

Motion by Commissioner Mazzucco, second by Commissioner Onek. Approved 5-0.

CLOSED SESSION (5:22 p.m. to 5:50 p.m.)

- a. **CONFERENCE WITH LEGAL COUNSEL: Pending Litigation Officers for Justice v. Civil Service Commission, U.S. District Court C09-1675**

(Present: Commissioners Sparks, Marshall, Mazzucco, Onek, Pan, Chief Fong, City Attorney Stump, Lt. Reilly)

VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION

Motion by Commissioner Onek, second by Commissioner Mazzucco for non disclosure. Approved 6-0.

APPROVAL OF THE MINUTES

- **For the meeting of April 1, 2009**

Motion by Commissioner Marshall, second by Commissioner Mazzucco. Approved 6-0.

PUBLIC COMMENT

None

PUBLIC COMMENT

Peter Cherneff discussed concerns regarding police corruption.

Doug Millar hopes that next Chief of Police be a female and discussed concerns regarding crimes against children.

Art Tapia, retired Lieutenant, made suggestions as to the new Police Chief and talked about the Community Relations Unit.

Troy Dangerfield, retired Lieutenant, talked about the Community Relations Unit and asked for a new Chief of Police that will promote community relations.

Doris Ward, former President of the Board of Supervisors, asked that the new Chief of Police be someone who understands the different San Francisco Communities and who understands people of color and who can work with them.

Commissioner Mazzucco acknowledged retired Lieutenants Tapia and Dangerfield.

Linda Richardson, Human Rights Commission, commended Chief Fong and her work with the communities.

Eileen Hernandez commended Chief Fong and commended the Commission for its diversity in representing the different communities of San Francisco.

Commissioner Sparks thanked all for coming and stated that she agrees with Commissioner Mazzucco's comments in that more retired officers should be involved to share their knowledge in community relations.

Art Tapia talked about the OFJ suit and the impact it made throughout the United States.

REPORTS TO THE COMMISSION

a. Chief's Report

- Update on significant policing efforts by Department members

Chief Fong introduced Deputy Chief Cashman to give a brief update about the Bus Inspection ("BIP") Program. Chief Cashman described the BIP Program. Chief Fong stated that the Department will schedule this for presentation before the Commission.

b. OCC Director's Report

- Review of Recent Activities

Director Hicks talked about cases opened from January 1st to date and stated 358 cases opened and 351 closed, 15 sustained cases, and 399 pending cases of which 135 from 2008 and 264 from 2009. Director Hicks also stated that from January 1st to date, the OCC has mediated 24 cases of which 8 in April. She went on to talk about OCC outreach and reported that Chief Investigator Charles Galman attended a BART public hearing.

Commissioner Marshall also stated that he attended the hearing along with Investigator Galman and Commissioner Sparks to talk about civilian oversight.

c. Commission Reports

- Commission President's Report

- Commissioners' Reports

Status Reports:

- Chief of Police executive search

- Organizational and other contemporary studies

- Rules and procedures for Patrol Specials

- Commission Office staffing

Commissioner Sparks stated that she will give a brief statement in regards to the Chief of Police executive search and stated that the process is going forward and stated that because of the critical nature of the confidentiality process, it is critical that the applicants remain confidential. Commissioner Sparks stated that there were comments made in the newspapers that factually incorrect. Commissioner Sparks stated that the Commission does not intend to release information until such time the Mayor makes his announcement of his final selection. Commissioner Sparks cautioned the members of the Commission to be very careful as to any information relative to the process and releasing information to friends and associates and once again asked the Commission to honor that confidentiality process.

Commissioner Sparks announced that on May 20th, the Phase 1 first quarter report will be agendize.

Commissioner Mazzucco reported on the Patrol Special study and

stated there will be a meeting set for Monday.

Commissioner Sparks talked about Commission office staffing and stated that she plans to go before the Board of Supervisors during the budget discussions to talk to them about reimplementing staffing for the Commission.

PUBLIC COMMENT

None

DEPARTMENT'S PRESENTATION REGARDING THE SAFE PATH OF TRAVEL ("SPOT") PROGRAM [CONTINUED FROM APRIL 22, 2009 MEETING]

Mr. Brian Yee, Director of Parking & Traffic SFMTA, and Brian Dusseault presented a brief history and overview of the SPOT Program.

Commissioner Sparks asked about the use of 10B officers and funding for the 10B officers and the use of on-duty officers. Mr. Dusseault stated that he believes that it is a mix of 10B officers and regular time officers. Commissioner Sparks asked if the citations paid for 10B officers or was it a self-funding program. Mr. Dusseault stated that the revenues were controlled by MTA and were used to fund training, documentation, and administration of the program.

Commissioner Sparks discussed concerns regarding a number of people that testified regarding abuses by SFPD personnel during the period of 2003 to 2008 and Commissioner Sparks asked whether or not the Commission can get a better understanding of what occurred during the period of time within the Department.

Commissioner Mazzucco asked if there were any discretion exercised before the issuance of the \$699 ticket. Mr. Dusseault stated that discretion was exercised but when the violation keeps occurring, then the ticket was issued. Commissioner Mazzucco discussed concerns about perception and asked how much money was made from the tickets and how much money was paid to the Police Department during the year of 2007 where there were 1,755 tickets issued. Mr. Dusseault stated he does not have that information. Commissioner Mazzucco stated he would like to see the numbers for 2007.

Commissioner Onek discussed concerns regarding what happened in the past years and the issue of the hearing officer on a speaker phone and contractors were singled out and utilities and public agencies were not. Commissioner Onek asked, after looking at the comparison of citation issued to contractors, public agencies, and utilities, about selective enforcement against contractors. Mr. Dusseault explained that there are more contractors out there. Commissioner Onek stated he would like to focus on going forward and doing things right going forward and hopes that when the 2009 and 2010 numbers come up that it will not have huge disparities. Mr. Dusseault explained that larger corporations and larger agencies are able to develop compliance programs and that improves compliance.

Commissioner Pan asked if the different kinds of violations are tracked. Mr. Dusseault stated that he will take a look at the information but he is not aware that they are tracked in a database by the type of violations. He stated that they are tracked in the police reports that are prepared when a violation is documented. Commissioner Pan also asked about using uniformed officers to control traffic.

Sean, RBA, expressed frustration stating that he never got answers from questions he asked two years ago. He also expressed concerns regarding double parking tickets versus 194.3 citations.

Commissioner Mazzucco asked if any of the contractors received the report after the citation was issued and asked if the police reports were provided to the contractors prior to the hearing on an appeal. Sean stated that reports were not provided to the contractors for the appeal and at the appeal. Commissioner Mazzucco asked if the citations were misdemeanor citations and not traffic citations. Mr. Dusseault stated that they are misdemeanor citations. Commissioner Mazzucco stated that if they are misdemeanors, then they are entitled to a jury trial and the contractors are entitled to discovery and counsel if they cannot afford one.

Commissioner Sparks stated that there should also be a police report written.

Mr. Dusseault stated that they are entitled to an appeal. Commissioner Mazzucco stated that the Commission needs to know if it is a misdemeanor or an infraction.

Sean, RBA, stated that they had a productive meeting with the MTA Spot Program and that they are willing to work with MTA to make this program work.

Commissioner Sparks stated that she is aware of a specific allegation of enforcement by an individual and that she has made the Chief aware of it and that it will be investigated and that if there is misconduct, it will be addressed. Commissioner Sparks asked what more would the RBA would like to see as far as participation from the Commission.

Sean, RBA, stated that he would like to wait a couple of weeks to see what the new process with MTA is going to be and then come back and report back to the Commission as to how things are going.

John O'Connor stated that what he would like is to have some of the money refunded back for the illegal citations. He stated that they've tried since 2007 to come to a conclusion as to the citations but never heard from the SPOT Program and asked that before moving forward, you have to look back as to past events. Commissioner Sparks asked for specific questions be filed with the Commission and the Department will do its best to get information.

Commissioner Pan made a couple of recommendations since this program is moving to the MTA: (1) to try and make sure that this program is not self funded, to determine what the appropriate level of funding is, and to fund it through the general funds so that there are no perceptions of a conflict; (2) to use senior street inspectors because they are more qualified; (3) to try and classify the types of violation because there are so much ambiguity in terms of double parking issues versus others; and (4) due process and a know-your-rights card.

Commissioner Sparks asked the RBA to make the contractors aware of these discussions and what's going on so that they have a knowledge as to discussions with the MTA and the Department.

Commissioner Mazzucco stated that the Commission needs to know if the violation is an infraction or a misdemeanor and if it is a misdemeanor, can it be turned over to the MTA and can MTA personnel issue a misdemeanor citation.

Mr. Yee, MTA, stated that, as part of the transitional process, they are having their city attorney to redraft the legislation to de-criminalize the offense so that it can be treated like a parking ticket.

Commissioner Mazzucco also asked for the statistics for the year 2007

as to how much money was collected through the hearings and how much was reimbursed back to the Police Department.

PUBLIC COMMENT

None

(The Commission took a break from 8:03 p.m. to 8:20 p.m.)

DISCUSSION AND POSSIBLE ACTION TO ADOPT REVISED DEPARTMENT GENERAL ORDER 11.07, "PROHIBITING DISCRIMINATION, HARASSMENT AND RETALIATION"

Lieutenant Anna Brown, Professional Standards Unit, presented DGO 11.07, "Prohibiting Discrimination, Harassment and Retaliation."

PUBLIC COMMENT

None

Motion by Commissioner Lee, second by Commissioner Marshall to adopt DGO 11.07. Approved 6-0.

RESOLUTION 38-09

ADOPTION OF REVISED DEPARTMENT GENERAL ORDER 11.07, "PROHIBITING DISCRIMINATION, HARASSMENT AND RETALIATION"

RESOLVED, that the Police Commission hereby approves adoption of revised Department General Order 11.07, "Hazardous Material Incidents." (Draft dated 03/12/09)

AYES: Commissioners Sparks, Marshall, Lee, Mazzucco, Onek, Pan
ABSENT: Commissioner DeJesus

PRESENTATION OF THE DEPARTMENT'S FIRST QUARTER 2009 EARLY INTERVENTION SYSTEM ("EIS") REPORT

Lieutenant Anna Brown, Professional Standards Unit, presented the 1st Quarter 2009 EIS Report.

PUBLIC COMMENT

None

ROUTINE ADMINISTRATIVE BUSINESS

- a. Commission Announcements**
Commissioner Sparks announced that Lt. Reilly will be contacting the individual commissioners for their availability for Closed Session meetings for the end of May. Commissioner Sparks also announced that the Commission will be voting for new Commission officers on May 20th and on May 13th the hearing of Captain Greg Corrales will start at 4 p.m.
- b. Scheduling of items identified for consideration at future Commission meetings**

PUBLIC COMMENT

None

ADJOURNMENT

Motion by Commissioner Mazzucco, second by Commissioner Onek. Approved 6-0.

Thereafter, the meeting was adjourned at 9:18 p.m.

Lieutenant Joseph Reilly
Secretary
San Francisco Police Commission

1497/rct