

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 5:50 p.m., in a Regular Meeting.

PRESENT: Commissioners Sparks, Marshall, DeJesus, Lee, Mazzucco, Onek

(Commissioner Marshall arrived at 7:51 p.m.)

DISCUSSION AND POSSIBLE ACTION TO APPROVE THE FOLLOWING ORGANIZATIONAL RESTRUCTURING, INCLUDING RECOMMENDATIONS OF PERF AND OTHER STUDIES, WHICH MAY REQUIRE AMENDMENTS TO THE CITY CHARTER, AND FORWARD THEM TO THE APPROPRIATE CITY OR COUNTY BODY FOR FURTHER ACTION:

- **Modify terms of employment for the Chief of Police to become a contract employee**

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- **Increase the scope of disciplinary authority of the Chief of Police beyond the current 10-day limit**

(Both items taken out of order.)

Mr. Gabe Cabrera, Office of the Legislative Analyst, presented the reports in regards to Police Chief Hiring and Police Disciplinary Procedures.

Ms. Mikki Callaghan, Director Human Resources, stated that her position as DHR director is subject to Board's confirmation and it is stated in the Charter. Ms. Callaghan also explained about the severance available to the Controller and stated that the Controller's position is in the miscellaneous MEA contract and that is 30-day notice, and a week's pay for every year of service or up to 26 weeks, and that's in return for executing an agreement. She also stated that the Police Chief's MOU also covers two classifications which are the Director for Forensics and the Assistant Chief. Ms. Callaghan also explained the process for improving the severance in the MOU and stated that it would involve the city requesting MEA to open the contract, negotiations, and then go through the process with the Board, which would take a couple of months.

Commissioner DeJesus asked about reopening the MOU. Ms. Callaghan stated all negotiations are done by the Department of Human Resources under the authority of the Mayor.

Commissioner Onek suggested asking Director Callaghan to work with the Mayor's Office to address concerns put forward by the Commission such as what can and cannot be done with the MOU to address concerns such as severance and also the time line for each of the steps.

Commissioner Sparks suggested, rather than the Director working with the Mayor's Office, to direct a memo to the Mayor's Office and the President of the Board suggesting the criteria the Commission wants to see included and

that there are two options: a Charter amendment and a renegotiation with the MOU. Commissioner Sparks suggested moving it in both directions simultaneously in hopes of getting quicker movement through the process.

Commissioner Marshall discussed concerns as to what the Commission would like to accomplish and having the resources to accomplish those goals.

Commissioner Lee expressed concerns regarding the time since April 15th is the deadline for applications for the Chief's position. She stated that this discussion can be set for a long term discussion but right now the Commission should just concentrate on getting the best package to attract the best candidates for the Chief's position.

Commissioner Mazzucco stated that to attract good applicants, at this point, working with the MOU is an easier alternative and stated that there probably will be a lot of qualified candidates.

Commissioner Sparks also stated that the PERF recommendations is independent of the process that is happening now with the search for the Chief of Police.

Commissioner DeJesus stated that the position should be protected and that the Chief of Police should have more independent power to move the Department forward to make the changes that are necessary. Commissioner DeJesus stated that the changes might not be on time for the new Chief but the process should be started.

Mr. Gabe Cabrera went on to present the second report in regards to increasing the scope of disciplinary authority of the Chief of Police beyond the current 10-day limit.

Commissioner Sparks explained that about two years ago, Chief Ribera, through USF, had a hearing to talk about this issue and that there was a universal consensus in the report that the Chief of Police of San Francisco should have a broader latitude of power to discipline than just the 10 days as provided in the Charter. This is to move things faster and that this would allow the Commission to concentrate on more serious offenses. Another option is to ask for more Commission staffing to do the legwork for the Commission, such as a hearing officer, to get things moving. Commissioner Sparks stated that the question for the Commission is is this a solution looking for a problem or does the Commission really need to do anything or should the Commission just go with what it has now.

Commissioner Marshall stated that he personally thinks that this is the Commission's biggest problem. He stated that process is extremely cumbersome and extremely slow. Commissioner Marshall stated that the Chief should have more power because it functions better. He stated that the Commission will do a greater service to the officers and to the Commission by giving the Chief more power over discipline and recommended the Charter amendment.

Commissioner Onek stated that on the PERF report, this issue was not on their scope but because the people that they talked to complained about it on all sides, they felt the need to put it in the report in some way. Commissioner Onek stated that the system is too slow and needs to be fixed. Commissioner Onek stated that there is a problem and the Commission should look at the best solutions for that problem.

Commissioner DeJesus stated the Commission should follow the Charter and stated that she has concerns about giving disciplines to the Chief and having the Commission completely excluded and recommended that the

Commission should get the resources that it should have in order to move this process along.

Commissioner Sparks recommended that if there is going to be a Charter amended, why not have a Charter amendment to actually staff the Commission so that it can do its job as civilian oversight under the Charter.

Commissioner Mazzucco stated that this is not about speeding up the process but about doing the right thing and stated that he does have full faith and confidence that whoever the Chief is can make a decision to give somebody up to 30 days without the Commission seeing it.

Mr. Steve Johnson, POA, addressed the Commission about concerns regarding the discipline process. He suggested increasing the Chief's power to suspend over 10 days with final approval from the Commission. Mr. Johnson stated that something has to be done in order to get the process going. He stated that the delay really hurt the officer because as long as discipline is pending, they cannot promote, they cannot transfer to specialized units, and they cannot become field training officers. Mr. Johnson suggested going into mediation with some of the older cases.

Commissioner Sparks also stated that, short of a Charter amended, the Chief can recommend disposition up to a certain point and then to the Commission for approval. She stated that the Commission can try that to see if it works and if it works, then a Charter amendment is not needed.

Commissioner Onek stated he will support increasing the authority of the Chief and he will also support that the Commission shall review decisions made by the Chief.

Chief Fong stated that she has heard a lot of discussions about discipline in regards to backlog and delays. She stated that she agrees with Commissioner Sparks and try to come up with a method to see if it would work and stated that she would like the Department and the POA to work together to bring settlements to the Commission and try to resolve some of the cases. She also stated that she does not agree with statements made about terminating officers if they were suspended over 30 days and stated that if the Commission comes up with a policy like that, it would hurt the men and women of the Department.

Commissioner Marshall urged the Chief and the POA to come up with something to get some progress in this matter.

Director Hicks stated that the first step would be to look at the discipline guidelines which need to be strengthened and that there should be further in depth discussions about this matter.

Commissioner Sparks asked the Commissioners for volunteers to head the discussions in regards to the two matters discussed. Commissioner Mazzucco will work with Lt. Reilly on overseeing the case management process. Commissioner Sparks asked Commissioner DeJesus to work with the Department of Human Resources and the Office of Legislative Analyst to get current data and then bring it back to the Commission for evaluation.

PUBLIC COMMENT

Barbara Growth discussed concerns regarding discipline.

Mary Harris stated that disciplines and awards should be dealt with in a timely manner.

ADOPTION OF MINUTES

- **Regular Meetings of February 4th and 18, 2009**

Commissioner Onek discussed concerns regarding the resolution in regards to the OCC budget for the meeting of February 18th.

Commissioner Sparks requested that Risa watch the video and get the correct language.

Commissioner Onek stated that he would like language added that the Commission as a whole supports the OCC Mediation Program and would like the following language added to the minutes: "Commissioner Onek expressed strong support of the Mediation Program but expressed concerns that the city attorney was not present to advise the Commission on the implications of moving the budget forward without recommendation."

Commissioner Sparks stated that the February 18th minutes will be put over pending modification to add language from DVD recording.

Motion by Commissioner Mazzucco, second by Commissioner Onek to approved minutes of February 4, 2009. Approved 6-0.

PUBLIC COMMENT

None

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Commissioner Jim Salinas commended and thanked Chief Heather Fong for her leadership.

Barbara Growth commented on the Chief's selection process.

REPORTS TO THE COMMISSION

a. Chief's Report

- Update on significant policing efforts by Department members

Chief Fong announced the Department has hired a Chief Information Officer that will start on March 23rd. Commissioner Onek congratulate the Chief for the new hire and asked for some background materials for this individual.

Chief Fong also talked about stimulus grants available to the Department. Grants available are the Cops Hiring Grant and Broadband initiatives.

Commissioner Sparks asked if Director Ken Bukowski of Fiscal can do a presentation in regards to the senior management structure of the Department basically Captains and above. Commissioner Sparks asked for an overview of the organization of the Department at that level. Commissioner Sparks also asked for a detailed overview of the Department's overtime, a breakdown of the overtime. Chief Fong stated that the Department will provide an organizational chart where all the captain and above are assigned and will provide an SF stat presentation.

Commissioner Onek commented on the cops grant and the support from Washington and encouraged the Department to keep its eyes and ears open in Washington to see what else will be coming down because there will be a lot of grant funding available.

b. OCC Director's Report

- Review of recent activities

Director Hicks discussed complaints received by the OCC. She stated that this month the OCC received 26 complaints and closed 24. Director Hicks also talked about outreach.

- 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**
- **Subcommittee on Violent Crime**

Commissioner Sparks announced that the PERF recommendation Phase 1 Implementation Plan will be discussed on April 1st and will be the only agenda item for that meeting. As far as Rules and Procedures for Patrol Specials, Commissioner Sparks stated she and Commissioner Mazzucco will meet with the consultant tomorrow and the contract will be executed in a day or two and will be moving forward with the study of rules and procedures for patrol specials.

Commissioner Lee asked Director Hicks if her office have received complaints in regards to traffic stops in the Mission District. Director Hicks stated that her officer have received complaints. Director Hicks explained that the OCC have investigators who speak Spanish as well as Cantonese and Mandarin.

Commissioner Sparks asked the Commission their opinion about applicants for the Chief of Police should or should not be required to have a bachelor's degree to make application. She stated that the current job announcement has that as an absolute requirement. Commissioner Sparks stated that she heard from some individuals who does not have a degree that is interested in applying and asked for Commissioner's opinion in that matter.

Commissioner Mazzucco stated that a bachelor's degree should be looked at as an additional criteria and it should not be a criteria that would prohibit people from applying for the job.

Commissioner Onek agreed with Commissioner Mazzucco and asked if the announcement went out already how can it be reversed. Commissioner Sparks stated she spoke with DHR Director Callaghan and stated that the primary criteria is when the brochure is develop and the criteria can be changed on both the ads and the brochure.

PUBLIC COMMENT

Mary Harris stated that higher education is encouraged but should not keep anybody from applying.

Barbara Growth discussed concerns about drugs and alcohol.

DISCUSSION AND POSSIBLE ACTION TO ADOPT REVISED DEPARTMENT GENERAL ORDER 8.07, "HAZARDOUS MATERIAL INCIDENTS"

Sergeant Matt Krinsky, Environmental Crimes Unit, sub unit of the Hit and Run Detail, presented Department General Order 8.07, "Hazardous Material Incidents."

PUBLIC COMMENT

None

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

RESOLUTION 24-09

**ADOPTION OF REVISED DEPARTMENT GENERAL ORDER 8.07,
“HAZARDOUS MATERIAL INCIDENTS”**

RESOLVED, that the Police Commission hereby approves adoption of revised Department General Order 8.07, “Hazardous Material Incidents.”

AYES: Commissioners Sparks, Marshall, DeJesus, Lee, Mazzucco,
Onek

ROUTINE ADMINISTRATIVE BUSINESS

- a. **Commission Announcement**
- b. **Scheduling of items identified for consideration at future Commission Meetings**

None

CLOSED SESSION

- a. **Discussion and possible action to sustain or not sustain the disciplinary charges filed in case no. C06-119 KMO**

Put over for a future meeting.

ADJOURNMENT

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

Thereafter, the meeting was adjourned.

Lieutenant Joseph Reilly
Secretary
San Francisco Police Commission

1497/rct