

MARCH 16, 2011

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 5:36 p.m.

PRESENT: Commissioners Mazzucco, Marshall, Chan, DeJesus, Hammer, Kingsley, Slaughter

(Commissioner Mazzucco arrived at 5:37 p.m. Commissioner Hammer arrived at 5:50 p.m. Commissioner Hammer is excused at 7:20 p.m.)

PUBLIC COMMENT

Christine Harris discussed concerns regarding being stalked by Raj Naicher and played a recorded message.

Marlon Crump discussed concerns regarding Raj Naicher.

Ray Hartz, SF Open Government, discussed concerns regarding Commission meetings and having the public speak freely.

Cathy Castro discussed concerns regarding unlicensed drivers and undocumented individuals and issue regarding harassment.

Durell Hunter discussed widespread corruption in the police department and being sent to jail and concerns regarding Officer Reese Burrows.

John, SF taxicab driver, discussed concerns regarding taxicab driver safety and robberies against taxicab drivers.

Clyde commended the Commission for work done during the police search and discussed concerns regarding incident involving the Southern Station officers.

DISCUSSION AND POSSIBLE ACTION TO ADOPT REVISED DEPARTMENT GENERAL ORDER 5.02, "USE OF FIREARMS"

Commander Mahoney presented revised DGO 5.02.

Director Hicks stated that the OCC have reached concurrence with the Department and talked about language recommendations for training of officers.

Commissioner Hammer explained the purpose of this department general order.

PUBLIC COMMENT

None

Motion by Commissioner Hammer to adopt the revised DGO, second by Commissioner Slaughter. Approved 7-0.

RESOLUTION NO. 11-32

ADOPTION OF REVISED DEPARTMENT GENERAL ORDER 5.02, "USE OF FIREARMS"

RESOLVED, that the Police Commission hereby adopts revised Department General Order 5.02, "Use of Firearms" (draft dated 03/16/11).

AYES: Commissioners Mazzucco, Marshall, DeJesus, Chan, Hammer, Kingsley, Slaughter

DISCUSSION AND POSSIBLE ACTION TO ACCEPT OR REJECT STIPULATED AGREEMENT ON CHARGES FILED AGAINST PATROL SPECIAL OFFICER ROBERTO ORTEGA, FILE NO. ALW C10-242

Ms. Ashley Worsham, Attorney at Law, representing the San Francisco Police Department, presented the stipulated agreement.

Mr. Louis Silver, Attorney at Law, representing PSO Ortega who was present.

Commissioner Hammer discussed concerns regarding language of allegations against PSO Ortega.

Ms. Worsham stated the Department agrees that specification no. 2 be dismissed but that the department feels strongly that the allegations in specification no. 1 is supported by the actions of PSO Ortega in the early morning in question.

Commissioner Slaughter expressed concerns regarding the specification for associating with somebody and getting in a car and going into a bar is a huge concern.

Commissioner Chan stated that the conduct does not merit discipline and moved that both specifications be dismissed.

Commissioner DeJesus stated that the Department does not have enough to support the allegations.

Commissioner Marshall asked how did it come about to a stipulated agreement.

Mr. Silver stated that procedurally the only way to get this to the full Commission is through a hearing and that the department is not willing to dismiss the charges, and in order to circumvent this process, he agreed to the stipulated agreement but stated that PSO Ortega welcomes a motion to dismiss.

Commissioner Chan amended her motion to reject the stipulated agreement and move to dismiss specifications.

Commissioner Kingsley stated that it is the series of events that lead the Department to the specifications and not the association and stated that the process itself has addressed the concern and have sent a message to PSO Ortega.

Commissioner Marshall stated that he has a problem as to dismissing the specifications without hearing the evidence.

Commissioner Mazzucco stated that the disposition should be to withdraw the charges.

Ms. Worsham stated that the Department is not amendable to dismissing the charges but would like it to be returned back to the Chief's level.

Commissioner Mazzucco asked if the Commission would like to amend the agreement to verbal admonishment.

Commissioner Hammer moved that the stipulation be returned to the Chief's level.

Parties agree to modify agreement to return to the Chief's level.

Motion by Commissioner Hammer, second by Commissioner Kingsley.
Approved 7-0.

RESOLUTION NO. 11-33

APPROVAL OF THE STIPULATED AGREEMENT TO RETURN DISCIPLINARY CHARGES FILED AGAINST ASSISTANT PATROL SPECIAL OFFICER ROBERTO ORTEGA, STAR NO. 2608, (FILE NO. ALW C10-242), TO THE POLICE CHIEF'S LEVEL

RESOLVED, that the Police Commission hereby approves the stipulated agreement between the parties to return disciplinary charges filed against Assistant Patrol Special Officer Roberto Ortega, Star No. 2608, to the Chief's level to be handled administratively; and

FURTHER RESOLVED, that said disciplinary charges filed against Assistant Patrol Special Officer Roberto Ortega be taken off calendar.

AYES: Commissioners Mazzucco, Marshall, DeJesus, Chan, Hammer, Kingsley, Slaughter

REPORTS TO THE COMMISSION

- a. Chief's Report**
- **Report on crime statistics**
- **Review of recent activities**

Assistant Chief Shawyer reported on crime statistics and reported that homicides exceeded last year's 9 to 17.

Commissioner Marshall asked about the recent Mission shootings. Captain Corrales talked about recent shootings two nights ago.

- b. OCC Director's Report**
- **Review of recent activities**
- **Presentation of the OCC's Monthly Comprehensive Statistical Report for the periods of January 1, 2011 through February 28, 2011 and January 1, 2010 through February 28, 2010**

Director Hicks presented the OCC's February case statistics.

- c. Commission Reports**
- **Commission President's Report**
- **Commissioners' Reports**

Commissioner Mazzucco announced that the Commission has forwarded the names for the Police Chief to Mayor Lee and went on to thank the Commission for their hard work during the past weeks.

Commissioner Kingsley thanked Commissioner Mazzucco for his leadership in this process.

Commissioner Marshall thanked Commissioner Mazzucco for his leadership in this process.

- d. Commission Announcements and scheduling of items identified for consideration at future Commission meetings**

Commissioner Chan announced that she will be in Memphis next week along with several doctors and asked that the CIT be on the calendar for April 6th and her resolution supporting the definition of community policing be set for April 6th.

Commissioner DeJesus asked about DGOs 5.17 and 8.10. Commander Mahoney reported on status of these two DGOs.

Commissioner Hammer asked about regulation on status of DNA testing and to pick a date to discuss Patrol Specials and discuss the draft about hearing rules.

PUBLIC COMMENT

Ray Hartz, SF Open Government, discussed the OCC's report and about him filing a complaint and about going through the OCC before filing a lawsuit. He also went on to talk about the Chief selection process.

Emil Lawrence discussed his public records request and not having documents released to him.

PUBLIC COMMENT ON ALL MATTERS PERTAINING TO CLOSED SESSION

Ray Hartz, SF Open Government, discussed allowing the public to participate in an officer's hearing.

VOTE ON WHETHER TO HOLD CLOSED SESSION

Motion by Commissioner Kingsley , second by Commissioner Chan. Approved 7-0.

CLOSED SESSION (7:15p.m. – 8:50 p.m.)

- a. **PERSONNEL EXCEPTION: Assignment of disciplinary charges filed in Case No. JWA C11-037 to a Commission for taking of evidence on a date to be determined by the Commissioner** (Assigned to Commissioner Joe Marshall, Resolution No. 11-34)

(PRESENT: Commissioners Mazzucco, Marshall, DeJesus, Chan, Hammer Kingsley, Slaughter, Lieutenant Falvey, Risa Tom, Deputy City Attorney Blits, Assistant Chief Shawyer, Commander Mahoney, Attorney Hechler, Attorney L. Stiglich, Mr. Steve Johnson)

- b. **PERSONNEL EXCEPTION: Discussion and possible action to sustain or not sustain disciplinary charges filed in Case No. KMO C10-161, and to decide penalty, if necessary** (Resolution No. 11-35)

(PRESENT: Commissioners Mazzucco, Marshall, DeJesus, Chan, Kingsley, Slaughter, Lieutenant Falvey, Risa Tom, Deputy City Attorney Blits, Assistant Chief Shawyer, Commander Mahoney, Attorney Hechler, Attorney L. Stiglich, Mr. Steve Johnson, and member involved)

Motion by Commissioner Kingsley to return this matter to the Chief's level, second by Commissioner Slaughter. Approved 6-0.

- c. **PERSONNEL EXCEPTION: Discussion and possible action to sustain or not sustain disciplinary charges filed in case No. JWA C10-186, and to decide penalty, if necessary** (Resolution No. 11-36)

(PRESENT: Commissioners Mazzucco, Marshall, DeJesus, Chan, Kingsley, Slaughter, Lieutenant Falvey, Risa Tom, Deputy City Attorney Blits, Assistant Chief Shawyer, Attorney Hechler, Attorney M. Hinckley, Attorney L. Stiglich, Mr. Steve Johnson, and member involved)

Motion to accept stipulated disposition, second by Commissioner Marshall. Approved 6-0.

- d. **PERSONNEL EXCEPTION: Discussion and possible action to sustain or not sustain disciplinary charges filed in Case Nos. JWA C09-128 & JWA C10-046, and to decide penalty, if necessary**

(PRESENT: Commissioners Mazzucco, Marshall, DeJesus, Chan, Kingsley, Slaughter, Lieutenant Falvey, Risa Tom, Deputy City Attorney Blits, Assistant Chief Shawyer, Attorney Hechler, Attorney M. Hinckley, Attorney L. Stiglich, Mr. Steve Johnson, and member involved)

Put over for penalty phase to April 13th.

(Taken in shorthand form by Ms. Eastellar Bruhl, CSR.)

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

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

Captain Corrales, Mission Station, addressed the Commission in regards to member involved.

CLOSED SESSION – PUBLIC EMPLOYEE APPOINTEMENT - Chief of Police

Taken off calendar.

ADJOURNMENT

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

Thereafter, the meeting was adjourned at 8:55 p.m.

Lieutenant Timothy Falvey
Secretary
San Francisco Police Commission

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