

APRIL 12, 2006

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., in Closed Session.

PRESENT: Commissioners Sparks, Campos, DeJesus, Marshall, Veronese
ABSENT: Commissioner Renne

PUBLIC COMMENT ON ALL MATTERS PERTAINING TO CLOSED SESSION

None

VOTE ON WHETHER TO HOLD CLOSED SESSION. (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d))

Motion by Commissioner Marshall, second by Commission Campos to hold Closed Session. Approved 5-0.

CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54957.9(b) AND SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(b):

PUBLIC EMPLOYEE PERFORMANCE EVALUATION: Chief of Police (Review of findings and decision regarding return of officer to duty following officer-involved shooting, OIS Case No. 06-02)

APRIL 12, 2006

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 6:00 p.m., in a Regular Meeting.

PRESENT: Commissioners Sparks, Campos, DeJesus, Marshall, Veronese
ABSENT: Commissioner Renne

VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a))

Motion by Commissioner Veronese, second by Commissioner Marshall for non disclosure of discussion held in Closed Session. Approved 5-0.

PUBLIC COMMENT

Patricia A. Tullock, Client Advocate of Police Abuse Victims, discussed concerns regarding violence by police.

Francisco DeCosta discussed concerns regarding quality of life issues and commended Commissioner Sparks.

Ace Washington discussed concerns regarding his press pass.

APPROVAL OF THE CONSENT CALENDAR

- a. **Resolution honoring Officer Max Fenner on the 100th Anniversary of his death on April 18, 1906**

Motion by Commissioner Veronese, second by Commissioner Marshall to adopt the resolution. Approved 5-0.

RESOLUTION 28-06

RESOLUTION HONORING OFFICER MAX FENNER ON THE 100TH ANNIVERSARY OF HIS DEATH ON APRIL 18, 1906

WHEREAS, the City of San Francisco suffered one of history=s great natural disasters on the morning of April 18, 1906; and

WHEREAS, the Great Earthquake that occurred at 5:12 a.m. and the resulting fires devastated most all of the City in the following days; and

WHEREAS, Officer Max Fenner was on duty, routinely patrolling his assigned beat in the vicinity of 138 Mason Street at that early morning hour; and

WHEREAS, Officer Max Fenner, as the earthquake violently struck the sleeping city, at a moment that required the officer to ignore the normal human instinct to save himself, instead rushed to the aid of citizens on the street and while attempting to lead them to a place of safety, was himself struck by falling debris as buildings collapsed around him; and

WHEREAS, Officer Max Fenner suffered fatal injuries in the selfless performance of his duty that morning, 100 years ago, in the finest traditions of the Law Enforcement profession and the San Francisco Police Department; and

WHEREAS, the City of San Francisco is observing the 100th Anniversary of the Great Earthquake on April 18, 2006; therefore

RESOLVED, that with gratitude for his service to the City of San Francisco, the Police Commission hereby honors the memory of Officer Max Fenner, who gave his life in the performance of his duty on the morning of April 18, 1906, the only on-duty San Francisco Police Officer to die as a result of the Great Earthquake, given on this, the 100th Anniversary of his death.

AYES: Commissioners Sparks, Campos, DeJesus, Marshall, Veronese

CHIEF=S REPORT

a. Update on significant policing efforts by Department members

Deputy Chief Tabak, for Chief Fong, updated the Commission on the arrests of suspects who held up victims in the Laguna/McAllister area for their laptops. This morning three suspects were taken into custody without incident.

PUBLIC COMMENT:

None

OCC DIRECTOR=S REPORT

a. Review of Recent Activities

b. OCC Policy regarding notifications of complaints against officers

Director Allen stated that his office has put together a packet in response to the Commission=s questions regarding notification of officers.

Commissioner Sparks asked that this item be continued for next week to give the Commissioners an opportunity to review the materials. Commissioner Sparks asked that this item be agendaized and give the POA an opportunity to respond as part of the presentation.

PUBLIC COMMENT:

Francisco DeCosta stated that the Commission should have a report at least 48 hours before the meeting.

UPDATE ON PATROL SPECIALS

- a. Report from Patrol Specials= Representative**
- b. Report from Department=s Liaison**

Commissioner Sparks asked that this item be put on the agenda every four or five weeks.

Ms. Jane Warner, President of Patrol Special Officers Association, updated the Commission on utilizing their organization as an available resource to help with Community Policing in the city.

Commissioner Sparks addressed Ms. Warner and stated that purpose of her appearance in front of the Commission, on an ongoing basis, would be to address issues and concerns that have occurred over the last several weeks. Commissioner Sparks stated that she thinks it is important that the Commission look at and understand what the process is.

Commissioner Sparks asked Deputy Chief Shinn about a committee that is being formed. Deputy Shinn stated that a committee is being formed as asked by Commissioner Renne. Deputy Chief Shinn also stated that there is also a subcommittee that met on March 8th and on February 14th, 39 amendments were asked for by the President of the Patrol Special Officers Association. Chief Shinn stated that due to the complexity of this issue and due to many legal complex questions this has been forwarded to the City Attorney=s for review and it is currently under review at this time.

Commissioner Sparks asked if Deputy Chief Shinn has seen the request by the Patrol Specials to work with DPW. Chief Shinn stated that he has not seen that request. Commissioner Sparks asked that a copy be provided to Deputy Chief Shinn.

Commissioner Sparks stated that the Commission cannot proceed on the things in the letter that are currently against the regulations that are enforced and so until this committee changes the regulations or modifies the regulations, these particular functions cannot be performed under the currently rules.

Commissioner Sparks would like an overview of how many applications there has been for selling beats or applications for assistant patrol specials and what the time line is on those and what the process is so that the Commission can get a better idea of how long those kinds of applications would be. Deputy Chief Shinn stated that Sergeant Tom is in the process of doing that.

Commissioner Veronese stated that the Patrol Specials have been out there for a long long time and the Commission has not heard any complaints against patrol special so clearly they are out there doing the job. Deputy Chief Shinn stated that their complaints go through the Management Control Division. Commissioner Veronese asked why the patrol specials are so under utilized in the Department. Deputy Chief Shinn stated that patrol specials are not recognized under the State as being police officers. Chief Shinn stated that, in his discussions with Jane Warner, patrol specials provide security service for profit. Chief Shinn stated that as far as their representation as providing services on the street, absolutely, just as a number of security companies in San Francisco provide security services and enforcement service in this City also. Commissioner Veronese asked why is the Afor profit@ aspect a negative issue. Chief Shinn stated that they represent themselves as small business owners. Commissioner Veronese asked why is the Department not utilizing the patrol special officers in their position. Deputy Chief Shinn stated that they are being utilized by the business owners paying for their services.

Commissioner Campos stated that clearly there are issues between the Department and the Patrol Specials. Commissioner Campos asked that a member of the Commission be involve with the committee that=s revising the policies and procedures of Patrol Specials. He stated that the Commission needs to move on this issue quickly. He asked what is the time line that the Commission can expect to see a first draft of a revised set of policies and procedures for patrol specials. Deputy Chief Shinn stated that based on the review and opinions of the City Attorney on many of the issues.

Commissioner Sparks stated that she talked to the Deputy City Attorney and the Deputy Chief and told them that what the Commission wanted to do was to bring things to the forefront and that it is a valid policy discussion to have. She also stated that she talked to the Deputy City Attorney and was told that there was a large number of issues that they had not gotten involved in them yet and that it was going to take a period of time. Commissioner Sparks stated that the Commission need to have this policy discussion and hopefully by having this on the agenda once a month, the Commission can move this policy discussion along.

Deputy City Attorney Molly Stump explained that the last time that this item was before the Commission several weeks ago, it was the Commission=s sense that given both the large number and the complexity of the specific proposals and the long history and development of this issue going back more than ten years up to significant decisions that have been made by prior Commissions over a period of time, that the Commission is interested in seeing a body of material that would inform the Commission about the history and where this Commission has been over a period of time and also to have a comprehensive understanding of the legal issues that this Commission faces as well as prior Commissions have faced and made decision upon. So the City Attorney=s office is in the process of pulling the materials together. Ms. Stump stated that it would be helpful to the Commission as the Commission prepares to participate in a policy discussion. Ms. Stump stated that if this is put on the agenda in the next four weeks, the City Attorney=s office will be able to provide that background material for the Commission.

Commissioner Marshall stated that the Commission shouldn=t schedule anything with the patrol specials before the Commission can get the history materials.

Commissioner Sparks addressed Ms. Warner and asked her to understand that there is a process that the Commission is trying to move along but until that process is completed, the Patrol Specials Officers have to maintain their services within the letter of the regulation that are written in 1994 and revised in 1998. Commissioner Sparks stated that the letter to the Chief and to the Commission asking for the ability some of the stuff that falls outside the regulations really need to be addressed in the context of this policy discussion.

Commissioner Campos stated his concern is that it=s been years since the revision of the policies and procedures, given the changes in San Francisco, and the needs of San Francisco, Commissioner Campos stated that the Commission needs to move on this matter as quickly as possible with the understanding that there is a complexity to the issues that would require time.

Commissioner Campos stated that he would like to hear from the OCC on some of the issue relating to patrol specials that have been raised and one of the questions is how to hold patrol specials accountable.

Deputy Director of Public Works addressed the Commission and expressed support for the patrol special officers.

Commissioner Sparks asked Deputy Chief Shinn to notify Commissioner Campos when the committee meets so that he can sit in and participate.

PUBLIC COMMENT:

Francisco Decosta addressed the Commission and discussed concerns regarding quality of life.

Ace Washington addressed the Commission and stated that if patrol specials are available for community policing, their service should be utilized.

Willie Adams stated that there is a need out there for patrol specials especially for low income communities.

APPROVAL OF MINUTES FOR THE MEETING OF MARCH 29, 2006

Motion by Commissioner Marshall, second by Commissioner Campos to approve the minutes. Approved 5-0.

COMMISSION ANNOUNCEMENTS

- a. **Withdrawal of the appeal of the Chief=s Suspension of Officer Mario Defina (File No. M-JCT-D05-089, OCC #0422-04)**

RESOLUTION NO. 29-06

NOTICE OF WITHDRAWAL OF THE APPEAL OF THE CHIEF=S SUSPENSION OF OFFICER MARIO DEFINA (FILE NO. M-JCT-D05-089, OCC #0422-04)

WHEREAS, a letter was received by the Commission Office from Mr. Steve Johnson, POA Representative, representing Officer Mario Defina, withdrawing his appeal of the Chief=s suspension for further proceeding before the Chief of Police; therefore be it

RESOLVED, that the request for withdrawal of appeal of the Chief=s suspension filed by Officer Mario Defina for further proceeding before the Chief of Police is hereby approved.

AYES: Commissioners Sparks, Campos, DeJesus, Marshall, Veronese
ABSENT: Commissioner Renne

SCHEDULING OF ITEMS IDENTIFIED FOR CONSIDERATION AT FUTURE COMMISSION MEETINGS

Commissioner DeJesus would like a status report regarding Department General Order 7.01 and the policy regarding the dogs.

Commissioner Sparks would like Sgt. Gittens to make a presentation regarding the process of issuing press passes.

Commissioner Sparks also would like a public hearing on the issue of the Department in the 21st century.

Commissioner Marshall asked about meeting in the Bayview District.

Commissioner Veronese, in addition to recognizing Officer Max Fenner, asked that Mr. Arthur Jackson, Taxi Commissioner, who passed away this week, be recognized and asked that this meeting be adjourned in his memory.

PUBLIC COMMENT:

None

Motion by Commissioner Veronese, second by Commissioner Sparks

to adjourn the meeting in memory of Mr. Arthur Jackson.

Thereafter, the meeting was adjourned at 7:30 p.m.

Sergeant Joseph Reilly
Secretary
San Francisco Police Commission

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