

FEBRUARY 10, 2010

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 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Marshall Mazzucco, DeJesus, Lee, Onek, Pan
ABSENT: Commissioner Hammer
(Commissioner DeJesus arrived at 5:40 p.m.)

APPROVAL OF THE MINUTES

- Regular Meeting of December 2nd and 9, 2009

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

DISCUSSION AND POSSIBLE ACTION TO APPROVE THE SAN FRANCISCO POLICE DEPARTMENT'S BUDGET FOR FISCAL YEAR 2010/2011

Item taken out of order.

Mayor Gavin Newsom addressed the Commission in regards to the City's budget and the challenge the City faces in regards to the budget.

PUBLIC COMMENT

Peter Alexander Chernoff discussed concerns regarding the budget and the case of Kevin Collins.

Emile Lawrence discussed concerns regarding the budget and submitted request for documents.

Raj discussed concerns regarding covert gang activities.

DISCUSSION AND POSSIBLE ACTION TO APPROVE THE SAN FRANCISCO POLICE DEPARTMENT'S BUDGET FOR FISCAL YEAR 2010/2011

Director Ken Bukowski presented the Department's budget for fiscal year 2010/2011.

Commissioner Mazzucco asked about additional revenues and ways to raise revenues. Director Bukowski stated that the Department is looking into different options for generating revenue.

Commissioner Mazzucco asked about the issue on Broadway Street and a way to seek reimbursement from the proprietors of clubs.

Commissioner DeJesus suggested having a committee in regards to passing legislation with the Board of Supervisors to have clubs pay extra for security that they use. Commissioner DeJesus also asked about the 1824 Principal Administrative Analyst in the Commission budget. Director Bukowski stated that the funding is available but it also requires a personnel requisition to be approved by the Mayor's Office and DHR.

Commissioner DeJesus also asked about security details for elected officials and where is it reflected on the budget. Director Bukowski stated that it comes under regular salaries and overtime. Chief Gascón stated that the Department is not ready to publically discuss details in regards to dignitary protection.

Commissioner Pan asked that, in terms of the 20 percent reduction and 10 percent contingency, he would like to see a breakdown in terms of layoffs,

furloughs, and a combination of both so that the public can understand what's really on the table.

Chief Gascón stated that his only concern is that there are labor negotiations going on and that he would not want to jeopardize any of negotiations that are going on.

Commissioner Lee asked for a subcommittee to work with Director Bukowski in terms of coming up with additional revenues. Commissioner Lee also asked about mandatory fringe benefits. Director Bukowski explained that mandatory fringe benefits are benefits set at the city level and that the department has no control over it.

Commissioner DeJesus stated she would be happy to meeting with Commissioner Lee and Mr. Bukowski to discuss the budget.

DISCUSSION AND POSSIBLE ACTION TO APPROVE THE OFFICE OF CITIZEN COMPLAINTS' BUDGET FOR FISCAL YEAR 2010/2011

Director Hicks presented the OCC's budget for fiscal year 2010/2011. Director Hicks stated that in order to meeting the \$540,000 or 20 percent reduction, the OCC will have to lay off 5.25 positions which would include three clerk typists, 1.25 investigator, and one attorney. In order to meeting the \$270,000 or 10 percent contingent reduction, the OCC will have to lay off 3.5 positions.

Commissioner Onek asked if the OCC have thought of wage concessions. Director Hicks explained that the wage concessions will be done citywide and the OCC staff is covered by five different unions.

PUBLIC COMMENT

None

REPORTS TO THE COMMISSION

a. Chief's Report **- Update on significant policing efforts by Department members**

Chief Gascón gave a brief crime update stating that crime is down 19 percent in part one crimes. The Chief also talked about attending the meeting of Major Cities' Chief of Police in Austin. The Chief also talked about a shooting incident at the Suede Club where four people were injured and one was killed. The police responded to this location Friday night, Saturday night, and Sunday morning the incident happened.

Commissioner Lee asked who is in charge of reviewing and/or suspensions of entertainment clubs. Chief Gascón stated that the Police Department does not have jurisdiction in closing or suspending entertainment facilities. That is under the jurisdiction of the Entertainment Commission.

Commissioner DeJesus discussed concerns about a Charter amendment addressing the Chief's ability to fire officers and stated that she will meet with the City Attorney and draft a resolution for discussion that will instruct the Chief to put specific issues in front of the Commission and obtain consent prior to presenting legislation or policy initiatives regarding the Department to the Board of Supervisors, the Mayor, and the citizens. Commissioner DeJesus also expressed concerns regarding an article on the Chronicle.

Chief Gascón explained that there were discussions that took place with the POA and members of the Commission that were assigned to represent the Commission in the discussion. The Chief also explained that there was a discussion of drafting a potential Charter amendment and the POA attorney was

the only one who volunteered to draft the amendment and with the full understanding that it will be a discussion draft. The discussion draft was put before the subcommittee put together by the Commission and the discussion evolved that the City Attorney should write the draft as opposed to the POA attorney and that was done. The Chief stated that the City Attorney wrote a draft and further discussions entertained the idea of perhaps the supervisors should review the draft. Prior to the holidays, Supervisor Campos was given a copy of the draft with the understanding that the Supervisor, the Chief, and others will have discussions regarding the City Attorney's draft after the holidays. These discussions are still pending and have not yet happened.

Commissioner Onek stated that he was one of the three members of the Commission who were asked by the Commission to represent the Commission. Commissioner Onek explained that there were three commissioners present along with the OCC, members of the Board of Supervisors' office, and key people to discuss this matter repeatedly saying that this means nothing until it comes before the full Commission.

Commissioner Mazzucco stated that the Chronicle article was inaccurate in regards to the discipline process. Commissioner Mazzucco stated that the Department, the POA, and the Commission need to work with each other toward reaching the goal of a better disciplinary system and that finger-pointing is not going to work.

Commissioner Lee stated that she was one of the commissioners that attended the initial meeting and stated that at that meeting, it was clear that, while the system needs to be reformed, the integrity, the oversight power of this Commission needs to be respected. She stated that it was agreed upon that the committee will draft something and bring the draft before the Commission for review. Commissioner Lee stated it never happened because the December deadline to meet the June ballot no longer happened and so the draft was never presented to the full Commission. There were no intentions to leave anyone out. Commissioner Lee also stated that the article was not completely accurate and asked the Commission, with the signature of the President, write a letter to the editor to clarify things that challenged the integrity of the individuals in the Commission and also to clarify the disciplinary process.

Commissioner Pan stated that because of time pressures, things started in a way that were not the best way and suggested that in matters like this, instead of having several members of the Commission participate in meetings that are then less public, maybe a better way of starting is to have a public meeting where all of the commissioners can contribute their ideas and the members who do participate in meetings with the POA, the Board and the Mayor can have a sense of the ideas other commissioners might have to offer.

Commissioner Marshall stated that he did speak to the reporter in regards to the article and has given him the history of everything that the Commission has covered. Commissioner Marshall also stated that the subcommittee had a discussion and had nothing in writing. He stated that there was no hearing because there was no document produced to have a hearing on. Commissioner Marshall also thanked the Chief for what he has done as far as discipline because it has been tremendous progress.

Commissioner Onek stated that the Commission needs to step up to move the disciplinary cases forward and commended the Chief for stepping up and asking his own team to think creatively about ways to resolve these cases and reach settlement.

Commissioner DeJesus stated that there should be guidelines in place so that everyone has the understanding of what should come before the full Commission.

- b. OCC Director's Report**
- **Review of recent activities**

Director Hicks reported that the opened 98 cases this year and closed 85 cases with eight cases sustained. The OCC has 394 pending cases to date.

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

None

PUBLIC COMMENT

None

DISCUSSION REGARDING DEPARTMENT GENERAL ORDER 3.01, "WRITTEN COMMUNICATION SYSTEM"

Lieutenant Rob O'Sullivan, Compstat, presented the overview regarding DGO 3.01, "Written Communication System."

Commissioner Pan asked what happens if there is a unit order in conflict with a general order. Lieutenant O'Sullivan stated that the general order stands.

Commissioner Pan also asked about Department Bulletins amending General Orders and requested that when the Department uses a department bulletin to amend a general order that it be presented before the Commission as part of the consent calendar at its next meeting to avoid inconsistencies.

Commissioner Pan asked the Department to come back in 30 days with suggestions specifically for DGO 3.01.

PUBLIC COMMENT

None

ROUTINE ADMINISTRATIVE BUSINESS

- a. Commission Announcements**
- **Assignment of Disciplinary Charges filed in Case No. JWA C09-255 to an individual Commissioner for the taking of evidence on a date to be determined by the Commissioner** (Resolution No. 11-10, Assigned to Commissioner Yvonne Lee)

Lieutenant Reilly announced that the Commission will meet in the Mission District, at the Eureka Valley Recreation Center, 100 Collingwood, San Francisco, on Wednesday, February 24th, at 6 p.m.

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

Commissioner DeJesus would like to invite Supervisor Mirkirimi to address the Commission on February 17th in regards to foot patrol and on dignitary issue and the amount the Department spends on security. Commissioner DeJesus also asked that the sit and lie issue be calendared for March 3rd. Commissioner DeJesus also asked to calendar a resolution in regards to what should be vetted at the Commission level for March 17th. Also, Commissioner DeJesus would like the analyst position for the Commission and a closed session on the amount of money the Department spends on dignitary issues. Commissioner DeJesus would also like a closed session to evaluate the Chief's performance for either the March 3rd or 10th meeting.

PUBLIC COMMENT

None

PUBLIC COMMENT ON ALL MATTERS PERTAINING TO CLOSED SESSION

Emil Lawrence discussed concerns why the commission is having a closed session so late.

VOTE ON WHETHER TO HOLD CLOSED SESSION

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

CLOSED SESSION (8:44 p.m. to 9:00 p.m.)

a. CONFERENCE WITH LEGAL COUNSEL

Thomas Barnes v. CCSF, SF Superior Court No. 476339

(PRESENT: Commissioners Marshall, Mazzucco, DeJesus, Lee, Onek, Pan, Chief Gascón, Lieutenant Reilly)

b. PERSONNEL EXCEPTION: Discussion and possible action to grant or deny Motion for Dismissal of Disciplinary Charges filed in Case No. C06-132 pursuant to Government Code 3304(d)

(PRESENT: Commissioners Marshall, Mazzucco, DeJesus, Lee, Onek, Pan, Chief Gascón, Lieutenant Reilly, Attorney Fortes, Attorney Stiglich, member involved))

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

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

APPROVAL OF CONSENT CALENDAR

a. Recommend that the Board of Supervisors approve settlement of the following case in accordance with the advice of the City Attorney: Thomas Barnes v. CCSF, SF Superior Court No. 476339

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

RESOLUTION NO. 12-10

THOMAS BARNES v. CCSF

RESOLVED, that the recommendation of the City Attorney for settlement in the litigation of "Thomas Barnes v. City and County of San Francisco," in San Francisco Superior Court Case No. 476339, be, and the same is hereby approved.

Date of Incident: February 23, 2007

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

PUBLIC COMMENT

None

ADJOURNMENT

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

Thereafter, the meeting was adjourned at 10:46 p.m.

Lieutenant Joseph Reilly
Secretary
San Francisco Police Commission

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