



OFFICE OF THE DIRECTOR
OF POLICE ACCOUNTABILITY

POLICE ACCOUNTABILITY BOARD
REGULAR MEETING
MINUTES
(approved)

Wednesday, September 14, 2022, 7:00 P.M.

No physical location; meeting held exclusively through videoconference and teleconference.

1. CALL TO ORDER & ROLL CALL BY VICE-CHAIR MIZELL 7:45 P.M.

Present: Board Member Nathan Mizell (Vice-Chair)
Board Member Kitty Calavita
Board Member Regina Harris
Board Member Juliet Leftwich
Board Member Deborah Levine
Board Member John Moore
Board Member Cheryl Owens
Board Member Ismail Ramsey

Absent: Board Member/s N/A

Temporary Assigned Staff: Anthony Rodriguez

BPD Staff: Chief Jen Louis, Captain Mike Durbin

2. APPROVAL OF AGENDA

Motion to approve the agenda.

Moved/Second (Ramsey/Mizell) **Motion Carried**

Ayes: Calavita, Harris, Leftwich, Levine, Mizell, Moore, Owens, and Ramsey.

Noes: None

Abstain: None

Absent: None

- Owens requests remove item 10 and item 9, given PAB has not heard back from BPD
- Motion to remove item 10 by Owens, seconded by Ramsey
- Motion to remove item 9 moved by Leftwich, seconded by Calavita
- Calavita agrees we should table item 28 to the next meeting

- Calavita motioned to move item 5 to 10, seconded by Leftwich
- Ramsey moved to approve agenda by unanimous consent, seconded by Mizell
- All approved by unanimous consent

3. PUBLIC COMMENT

4 speakers.

- Iris Mattes from the City Attorney's requests we go to recess so she can speak with Mizell privately
- Mizell has returned and is prepared to end the meeting
- Multiple board members request Iris to speak openly to the entire board
- Mattes shared information to Mizell under client/attorney privilege. As a matter of expediency has motivated her to request a sidebar with Mizell.
- Ramsey has asked Mizell for his understanding of why we need to adjourn the meeting. Not the information City Attorney has shared to Mizell.
- Calavita asks if it possible to have a closed session?
- Ramsey says we will need to in order to meet with Mattes.
- Levine requests the board needs to decide whether to close the meeting or not. Levine reiterates we have all met and joined meetings late, prior city council meetings included
- City Attorney Brown joins from public comment and mentions there is confusion whether the link to access the meeting was broken or inaccessible.
- Ramsey comments the link was working and the meeting had not yet started
- Brown believes members of her staff were not able to join. She received clarification that the link was in fact working accordingly.
- Emily Raguso: Last day at Berkeleyside was last Friday. She launched new website. Speaking as member of the public now. Comments the usefulness of given notice of delays in meeting start times. Comments there may have been less attendance among those who did not have the access or assumed the meeting ended.
- Cordell Hindler: [Muffled, moved on.]
- Kitt Saginor: Would like to speak on the police military equipment report. The report does not meet the requirements of state law AB 481. PAB has received via email recommendations for what is missing. Hope to not ask City Council to recommend a report that is insufficient.
- Wendy Alfsen: Dialed in at 7pm, stayed on hold, eventually called in from second phone and computer. Was on hold on two different lines on two different devices. Regarding the police military equipment line, PAB crossed out the requirements that the department has started with. We are looking for the number of days and instances with which the percentage was used for warrant/non-warrant use of

authorization. Alfsen mentions the map provided doesn't provide police boundary areas, and doesn't allow one to include the certification that you are allowed to make. Mentions State 418 report is not due yet, therefore report should be amended. Recommends noting to the Council that it is not intended for State 418 report or that it is insufficient to be submitted for State 418 report. Need to amend the deficiencies. Hopes the city will remedy the staffing shortfall that contributed to background issues

- Cordell Hindler: [Audio is still muffled/broken up. Left and rejoined and audio is still muffled/broken up.]

4. APPROVAL OF MINUTES

Motion to approve Regular Meeting Minutes of July 27, 2022

Moved/Second Calavita/ Mizell. **Motion Carried**

Ayes: Calavita, Harris, Leftwich, Levine, Mizell, Moore, Owens, and Ramsey.

Noes: None

Abstain: None

Absent: None

5. ELECTION OF NEW CHAIRPERSON – MOVED TO ITEM 10

Motion to

Moved/Second (_____/_____) **Motion Carried / Failed**

Ayes: Calavita, Harris, Leftwich, Levine, Mizell, Moore, Owens, and Ramsey.

Noes: None

Abstain: None

Absent: None

6. BOARD MEMBERS' REPORTS

Owens: Reached out to the department. Not sure who to reach out to. Who to contact. Who gives us direction. We do not know what the process is with the director. Is there any knowledge about the process in hiring, timeline. What are we supposed to do with the board meeting?

Mizell: There will be interviews of the DPA position this week. Not sure how council will decide to act. I don't know who is our contact. Mayor and city is keen on this issue. They are working on this issue.

Owens: The issue we had simply with getting into the meeting. Not having someone to contact in our meeting, should we be waiting. Not having someone.

Mizell: It is only Maritza at the moment. Former Director Lee is helping with her retirement. There is no disagreement. We do not pull those strings. Others are aware, and something else needs to happen.

7. CHIEF OF POLICE'S REPORT

Interim Chief Louis reported:

Event on Stanford and San Pablo. During the stop, driver admitted to being in possession of drugs during a probable cause stop. Officer recovered a 1.5 lbs of rainbow fentanyl. CDC says 2 lbs. can kill 2000 people. Meth was also seized.

Another two cases resulted in custody from good police work

Sep 8: Stabbing occurred. Someone was arrested. Police was able to apply a tunicate in the field.

Sep 9: Shooting in 10000 block of Cedar St. Shooting in a house during an arms deal. Police safely took suspect into custody. Police acquired warrant to search home and car. During sweet of car meth was found.

Police provided booth and security at local event in the neighborhood [Solano Streets?]

Pedestrian safety month is underway, trying to drive down pedestrian serious and fatal injuries. Officers are distributing pedestrian visibility lights.

Tomorrow 9/15: will host a Talk With A Cop Sense Hotel and Bistro Coffee

One Police Officer resigned, approx. 147 sworn officers

Two offices in FTO, two in the academy, one to graduate next month

Continue to suffer staffing issues. Working to try and expand recruitment issues. Trying to encourage individuals to find a career in service.

Louis: Would like to make a statement about her commitment to the safety of this community. Attempted to be transparent and collaborative with this board. Needs all to put in effort to collaborate together, along with knowledge base of this department, to help work together and find and make resources for this community. Will want to continue to engage in collaboration and conversations. Will continue to participate at all levels, including sub-committee. There is new leadership at the department. Captain Mike Durbin has been promoted, will continue to work to provide accountability

Durbin: Would like to continue to serve and protect our community. Has previous work with Police Accountability and will continue to build off of the work of PAB

Owens: Hopes to collaborate together. Would like to see collaboration from both sides. Need to work with the department and city staff better. Important to come together and work collaborative. PAB can also step up. Goal should be to make the possibility of public safety a reality.

Ramsey: Appreciate the chief's comments on collaboration. Agree with Owens on those actions. One question for clarity: When does the department plan on providing policies to the board [PAB] during our review? During the PRC old days, had informal agreement of 30 days. There hasn't been a set amount of days/standards. What will be practiced going forward?

Louis: No issue becomes policy without a copy going to the BPD. PAB receives a policy at the same time the BPD does. It appears PAB will want to review a policy before it goes live. Sometimes there is a mistake. BPD has removed language

[mistakes] re: tear gassing. Can't always give a 30-day notice guarantee. It may not always be perfect. Still will want meaningful collaboration.

Ramsey: It would go a far way to provide input to allow policies to be reviewed. Did PAB ever hear back from the department re: treatment of inebriated folk?

Louis: BPD is going to look at this policy based on the event [discussed from the previous PAB meeting], there is a possibility we rolled from the Lexicon system. But there was no change in language under the review.

Ramsey: Captain was supposed to review the policy.

Louis: There are no reviewed changes made. Believe the concern is that there is not enough community resources [to help with a sufficient response/treatment].

Levine: The event from the last meeting, directed at Calavita, has moved her. Otherwise it will not feel safe to render an opinion. Will try to be collaborative. When it is not civil, it needs to be called out and condemned.

Leftwich: Echoes Levine's comments.

Owens: Mentions tension regarding matters that isn't agreed upon by everyone, sometimes requires opinions not to be taken personally. Has seen PAB board members act similarly towards police chief, council, and the Mayor. Uplifts the need for civility and responsibility to adhere to guidelines to reduce bias.

Calavita: Voices it felt objectively as an attempt to intimidate and silence. It will backfire. My commitment to oversight and racial justice is unwavering, and so is my ability to not be intimidated. Once we acknowledge the harms of the past we can move forwards towards goal in the future. We all share the goal of public safety in justice and policing. I do feel it was an attempt to intimidate and silence. It will backfire.

Mizell: Harshest thing I've seen is when saying the Chief cannot control a Captain in their own department. The captain would not participate because of impediments. Look forward to collaborating with Louis. Thank you working with Captain Durbin.

8. SUBCOMMITTEE REPORTS (DISCUSSION AND ACTION)

Report of activities and meeting scheduling for all Subcommittees, possible appointment of new members to all Subcommittees, and additional discussion and action as noted for specific Subcommittees:

a. Renew Fair & Impartial Policing Implementation Subcommittee.

a. Move to renew: Calavita. Seconded: Mizell

b. Motion carries under unanimous consent.

b. Dissolve or renew Director Search Subcommittee.

a. Don't want to dissolve until the Director is hired

b. Moore: Motion to review. Seconded: Owens

c. Motion carries by unanimous consent

- c. Regulations Subcommittee – see Item #9.a. below.
 - a. Owens: Will want to continue subcommittee. Important work. Looking for new members to join.
- d. Dissolve Controlled Equipment Subcommittee.
 - a. Moore: We have more work to do in this subcommittee. Will take till March 2023. Welcome more members of the board to join

9. OLD BUSINESS (DISCUSSION AND ACTION)

- ~~a. Finalize review of draft proposed permanent Regulations for Handling Investigations and Complaints.~~

Motion to

Moved/Second (_____/_____) **Motion Carried / Failed**

~~Ayes: Calavita, Harris, Leftwich, Levine, Mizell, Moore, Owens, and Ramsey.~~

~~Noes: None Abstain: None Absent: None~~

- b. Review Annual Equipment Use Report.

Calavita: This is the third prong of public safety. Use report part is due next Tuesday 7/20, will need to submit soon. Some items included in 481 that are not included here. On page 41 of the packet, the department notes the inventory numbers. These were reported on already in the impact report. Similarly mentioned in the department’s report are not included here. Might be because BPD included in the impact statement. Calavita points to some inconsistency in the use of language (deployment, utilize, or employ). Also points to the need for a breakdown of items being clarified by warrant/non-warrant. Proposes to council and suggests that the definition of deployment be clarified.

Levine: Agrees to providing recommendations to the council by suggesting more precision to these definitions. A description to these incidents should be more specific and helpful (ex. Held by an officer, pointed to a suspect, held by the hip, etc.). Descriptions of events would have more understanding of the use of this equipment.

~~Calavita: Notes this report needs to be approved by PAB by March.~~

Moore: Unless there is opposition with what this report says, would like to pass with council. Otherwise should voice concerns and/or request more time to work through language changes.

Owens: Suggests this can wait till next year, as language needs to be cleaned up. Doesn’t see any issue with the matters PAB needs to report on. Agrees with Calavita that BPD can add more to the report and packet, can bundle it all together and send it all together.

Leftwich: Requests to have next year’s report include more details on what has happened.

Owens: Asks: Is this something that the subcommittee can work on to help with standardizing language?

Leftwich: Need special meeting to vote on language to be used.

Mizell: Committed to help ensure any message gets forwarded to council properly. Can Bcc with any and all relevant information to PAB board members.

Levine: Asks: Can we communicate to the Council that we didn't have the ability to do this, a thorough review, because of our lack of staffing? Would appreciate Mizell that we can communicate this to the council.

Calavita: Asks: Will we submit anything in addition to our normal report out?

Mizell: States there is no issue for board members writing to the board or calling a special meeting.

Leftwich: Recommends memo to council does not have to be more than two pages.

Calavita: Will write memo and send to Interim Secretary Anthony Rodriguez.

Rodriguez: Acknowledges.

Owens: Considers whether to have a special meeting before next council meeting

Mizell: Reminds group that a special meeting would require 5 board members or acting Chair will call.

Calavita: Mentions would be good to at least send something to the board. Send to Maritza, who would send to everyone blindly.

Owens: Seconded.

Mizell: Call for a roll vote.

Aye: Calavita, Harris, Leftwich, Levine, Mizell, Moore, Owens. Nays: Ramsey.

10. ELECTION OF NEW CHAIRPERSON

Mizell: Opens nomination process.

Ramsey: Nominate Moore. Calavita: Seconded. Moore: Accepted.

Harris: Nominate Owens. Ramsey: Seconded. Owens: Accepted.

Calavita: Nominate Mizell. Leftwich: Seconded. Mizell: Accepted.

Mizell: Closes nomination process.

Mizell: Given Mizell is running for Berkeley Rent Board, may impact ability to serve as Chair. There are different interpretations. Will consult City Attorney for conflict.

11. NEW BUSINESS (DISCUSSION AND ACTION)

a. ~~Public comment made at July 27 meeting regarding Board member Galavita.~~

~~Motion to~~

Moved/Second (_____/_____) **Motion Carried / Failed**

Ayes: ~~Galavita, Harris, Leftwich, Levine, Mizell, Moore, Owens, and Ramsey.~~

Noes: ~~None~~ Abstain: ~~None~~ Absent: ~~None~~

12. PUBLIC COMMENT

4 speakers.

Cordell Hindler: Rates this meeting a 7. Has attended similar meetings that have been lengthy. Suggests keeping the agenda as-is. Feels voice is not heard because of the late hour and removing agenda items. Thinks the Director's Search subcommittee should be kept.

Charles Clarke: There will be a special city council meeting at 10am next Tuesday. The contents of this meeting have not been disclosed. The use report has not been agendized. Also concerned with the use of deployed. Would recommend the use of displayed, as in furnished or brandished, instead of discharged. Will want to denote an activity-like verb, such as dispense. Display or activation would be more useful language.

Kitt Saginor: Acknowledges difficult start to the meeting after a hiatus. Appreciates good job and hard work.

Emily Raguso: Agrees with Calavita. If we don't know the language we don't know how to report and what to hold accountable. Is happy everyone is on the same page as that. Looks forward to attending cops with cops in the morning

13. ADJOURNMENT

Motion to adjourn the meeting.

Moved/Second (Owen/Moore) By general consent, the meeting was adjourned at 10:06p.m.