

RICHMOND POLICE COMMISSION

Wednesday, October 2, 2013 – 7:00 p.m.
Employment & Training Building
330 – 25th Street
Conference Room 1

MINUTES

I CALL TO ORDER, ROLL CALL, PLEDGE

The meeting was called to order at 7:00 p.m. by **Chair Felix Hunziker**

ROLL CALL

Present: Nemy Bautista
Felix Hunziker
Scott Gillespie
Alejandro Navarro
Bea Roberson
Glenn Stephenson
Eleanor Thompson
Yenny Velazquez

Absent: None

Vacancies: One

Administrative

Staff: Terry Simpson, Investigator – Present
Malia Glover, Executive Secretary I – Present

Council Liaison: Jael Myrick, Council Liaison – Present

City Attorney's

Office Representative: Bruce Soublet, Assistant City Attorney – Present

II APPROVAL OF MINUTES – September 4, 2013

Upon motion by **Commissioner Roberson** and second by **Commissioner Bautista**, the minutes for the regular meeting of September 4, 2013, were approved with one revision.

III REPORT OF CHIEF OF POLICE (Chris Magnus or his representative)

A. Report of recent activities, events, incidents, and related matters

Capt. Williams represented the chief. He reported that there have been 14 homicides to date; last year they finished with 18.. He said they are currently testing two different types of body cameras. One is a body camera that is actually worn on the body of the police officer and the other is a camera that attaches to glasses. They will choose one after the completion of the 30 day test period. Patrol deployment will be changing beginning next year. They will be reverting back to the 4/10 schedules. A command staff retreat will be held next month for their five year strategic plan.

B. Report on duties and responsiveness of Watch Commanders

Capt. Williams said that one of the things they are doing to increase the responsiveness of the watch commander is they are increasing the number of watch commanders from five to six next year. They will have three during the week and three during the weekend, one for every shift. Their primary responsibility is running the patrol division and the physical police department itself including the records division and jail. They spend less than 10% of their time actually sitting in their office, as they have to respond to different incidents that arrive from the street to be sure resources are being managed correctly. He said the best way to contact the watch commander is to call dispatch and ask them to have the watch commander return your call.

Phil Mehas asked how long data from the body cameras will be kept and when the department will start using them. He asked if it was as long as an officer is on duty or only for special events. He also asked if the policy that is being developed is being brought to the police commission for their input. **Capt. Williams** said the data will be kept for one year. The exception would be if there was an ongoing investigation, then it would be retained for as long as needed.

Chair Hunziker asked if it could be used as evidence without someone being read their rights. **Capt. Williams** said yes. He said there are two different types of evidence that can be used. One is you have to advise the person that you are recording then you can record and one is you have to get their approval before recording. This is still in policy development and they haven't decided which one is applicable to their use.

Commissioner Navarro asked which officers will be using the cameras. **Capt. Williams** said their goal is that all patrol officers will have cameras.

Commissioner Bautista asked if the cameras would be used at public rallies and demonstrations. **Capt. Williams** said they are still developing the policy but they probably would be used for those types of events.

Commissioner Roberson asked what officers would do if they don't wear glasses. **Capt. Williams** said there are clear or transition glasses that could be used, but they are still working this out.

Commissioner Thompson asked if an officer pulls someone over, can the car be searched. **Capt. Williams** said the officer must ask for consent. If they say yes, the car can be searched. **Commissioner Thompson** asked what if they say no. **Capt. Williams** said if the officer doesn't have any legal reason to search the car, then it can't be searched. **Commissioner Thompson** asked if the car could be searched if the driver had no license. **Capt. Williams** said yes.

Commissioner Velazquez asked if the car can be searched if the driver is unlicensed and there is no evidence that they have committed a crime. **Capt. Williams** said yes, because the person is driving unlicensed and the officer has the authority to tow the vehicle. They need to do an inventory search of the vehicle prior to it being towed.

Commissioner Velazquez said if she had no license, she would have to let the officer search her car, even though she hasn't committed any crime. **City Attorney Bruce Soublet** said the vehicle code says that you cannot legally drive a vehicle in the state of California without a valid driver's license. **Capt. Williams** said they give the person an opportunity to call someone that has a license to pick up the vehicle so that it doesn't have to be impounded.

Commissioner Bautista asked the rank of the watch commander. **Capt. Williams** said the rank is lieutenant or a sergeant acting in the lieutenant's role.

IV PRESENTATION BY CODE ENFORCEMENT (Tim Higare)

Superintendent Denee Evans reported for **Tim Higare**. She distributed handouts with tips from the Code Enforcement Unit, how to keep your vacant residential property safe from squatters and a printout of a PowerPoint presentation regarding the Code Enforcement program. **Chair Hunziker** asked her to focus on the process involved in abating vacant homes, the success rate and timeline. **Ms. Evans** said many of the property owners who were foreclosed on left their homes abandoned and the banks are not changing those properties over to their names. If they do transfer the titles to their names, they then transfer them to other trustees to act on their behalf and they are hard to locate. Currently, they have 36 active, vacant property cases; seven of those are officially owned by a bank. Their success rate depends on the willingness of the party at the other end of the phone to work with them. It's very time consuming and can take from a month to a year, to a year and a half. They've recently hired some advanced officers with a lot of experience. They now have vacant property registration and an on-site building inspector in code enforcement also. They will be tracking and monitoring calls for service and tracking squatters. In the near future, their success will be measured by the way neighborhoods look. They will become more proactive resulting in compliance and more monitoring and maintaining of the properties. Under the direction of the city manager, they've put together an inter-departmental task force with people from the former redevelopment agency, code enforcement, and housing to acquire some of these properties. She said it is a multi-faceted plan and people will be able to see the benefits of it within the next year.

Commissioner Bautista asked her to explain tag removal on public and private properties. **Ms. Evans** said the mayor formed a special committee to discuss graffiti being an art or a tag and they are in the process of trying to codify the word tag and remove the word graffiti from the city's ordinance.

Commissioner Bautista asked if private owners were responsible for removing tags in Richmond. **Ms. Evans** said yes. She said they've found that people are afraid to remove tags because of retaliation. They have a graffiti removal specialist that removes tags from public and private properties.

Commissioner Stephenson asked if there was an ordinance that says abandoned houses should be boarded up and within how many months from abandonment. **Ms. Evans** said yes they do have an ordinance and as soon as they are made aware of it is when the houses have to be boarded.

Commissioner Bautista asked if Code Enforcement issued citations for expired registration tags on vehicles that are parked on the street. **Ms. Evans** said yes. If it's been expired for three to six months they will get a citation. If it's on private property they will issue a 30 day notice to get the registration current or the vehicle will be towed.

Commissioner Gillespie asked if the vehicle would be towed if it has been filed planned non-operational at DMV. **Ms. Evans** said no but if it has flat or missing tires, broken windows, etc., it can be towed.

Commissioner Gillespie asked who is responsible for the extensive graffiti in the area along the 580 corridor near Costco (on the back of American Soil). **Ms. Evans** said it is part Caltrans and part railroad property. They have to contact the railroad property and ask permission to help them out by removing the graffiti. Caltrans usually takes longer because they feel it's a safety issue. She said she will look into that area.

Commissioner Navarro asked why there was a four hour time frame for street sweeping. **Ms. Evans** said they are short staffed and they have 400 miles of commercial and residential zones that have to be swept on a weekly basis. They only have one parking inspector to cover all of the routes. They are looking into some solutions including using something similar to LPR cameras on street sweepers. This may speed things up and eventually allow them to shorten the 3 to 4 hour time frame.

Commissioner Stephenson said that in some unsightly areas some of the homes are owned by elderly people and asked if the city could help them with the upkeep of the exterior of their homes. **Ms. Evans** said they don't currently have any programs for that but she agreed it is a good idea.

V PUBLIC FORUM

Cordell Hindler read a poem regarding black on black crime. He said there have been 14 homicides in Richmond this year. He said if we could figure out ways to help the community lower the crime rate, the crime rate will go down.

VI POLICE COMMISSION CONTINUING EDUCATION

- A. Discussion of planned or proposed educational and training opportunities for members of the Police Commission

Chair Hunziker referred to a hand out that was forwarded by **Commissioner Gillespie** called Point of View, a publication of the Alameda County DA's Office

regarding search warrants. He said it is very informational. He asked **Capt. Williams** if there will be a Ceasefire call-in in the near future. **Capt. Williams** said he was not directly involved with Ceasefire any more so he did not have an answer. **Chair Hunziker** said he will check with **Capt. Gagan**.

VII POLICE COMMISSION OUTREACH

- A. Discussion of planned or proposed educational and training opportunities for members of the Police Commission.

Chair Hunziker asked **Bruce Soublet** about the legal opinion he requested about a Facebook page for the Police Commission. **Bruce Soublet** said the city is in the process of developing a social media policy for the entire city. They want to have a consistent policy for every department as well as all boards and commissions. Once the policy is developed they will meet and confer with all of the organizations before it is finalized. Once it is adopted, it will be forwarded to everyone. **Chair Hunziker** asked what the timeline was. **Bruce Soublet** said it will be fairly soon.

Commissioner Bautista requested that the Police Commission brochure be updated.

Chair Hunziker said that anyone who is interested in going to neighborhood council meetings to hand out flyers to contact **Commissioner Stephenson**.

VIII POLICE-COMMUNITY RELATIONS

- A. Discussion of planned or proposed outreach projects to strengthen partnerships between the community and the Police Department.

There was no discussion on this item.

IX POLICE DEPARTMENT POLICY REVIEW

- A. Discussion and action regarding Policy #462 (License Plate Readers)

Capt. Williams gave an overview of the policy. He said the policy has been reviewed by the chief of police. He said he has some recommendations for this policy that he will be forwarding to the commission for review. He said he was here to hear the commission's views and opinions.

Jim Hausken said he was a member of the ACLU and they are concerned that people don't have an expectation of privacy. The LPR's change the ground rules because they are now a thousand eyes. They run the risk of damage to basic civil liberties. They are concerned with data that shows where they are and where they have been, churches they attend, what groups they belong to, and what their social activities are. He said he was entirely for technology but it is left wide open for abuse. He said officers will be able to use this information for whatever purpose they want.

Commissioner Roberson said that police are not watching anyone's house; they are driving by looking for stolen cars. She asked why they aren't concerned with

Google Maps and things such as that. **Jim Hausken** said Google only takes one picture. He said that's different than the thousands of pictures the LPR's will take of your license plate wherever you go. All the data is collected and they will put together a profile on you. He is concerned about the massive amounts of very telling data.

Phil Mehas said that code enforcement may be using LPR's on street sweepers. He said he has concerns about record keeping. He asked how long the information will be stored. The potential for abuse is what he has a problem with. He wanted to know why the data needs to be kept for a year.

Commissioner Gillespie said that the reason one year is specified in the policy is that the government code section listed (Government Code 34090.6) requires it. It specifies that videotaped images shall be retained for one year and thereafter, they may be destroyed. He said that the California Vehicle Code, section 2413(b) requires the CHP to delete their data after 60 days, so there is a real disconnect in the law. He suggested that anyone that has a problem with the one year retention to contact their state representatives. He said why not make all police agencies conform to the same standards that the CHP is currently being held to. **Chair Hunziker** asked **Asst. City Attorney Soublet** to follow up with **Commissioner Gillespie** and verify that this government code section does indeed extend the purge dates of the LPR data to one year. **Commissioner Gillespie** recommended that the policy be changed to say **shall** be purged after one year.

Commissioner Stephenson asked if the LPR's could be programmed to only retain the data if it picks up a hit and everything else that is not a hit could be dropped off. **Capt. Williams** said he did not know if it had the capability to do that. He said that the LPR's are an investigative tool. It is a searchable database of license plates that have been recorded by these machines in different areas in the city. It is extremely valuable in looking for stolen cars and cars that have been involved in crimes that RPD or their partners, Contra Costa County Sheriff's and Sacramento County Sheriff's, may be looking for. There also may be a reason to look up a license plate at a later date.

Chair Hunziker said he feels law enforcement agencies shouldn't be storing data about people who have done nothing wrong. The data includes photos of people on private property. **Capt. Williams** passed around examples of what types of photos the LPR's record and an example of a printout that officers would receive for a hit on a stolen vehicle. **Chair Hunziker** said it is basically creating a visual trail of citizens' movements. He said the percentage of hits is very low. He is concerned with how data is being shared with regional agencies and that the technology intimidates people.

Commissioner Roberson asked if there were certain officers assigned to these cars and taking pictures all day. She also asked how long it took for an officer to get an alert when there is a hit. **Capt. Williams** said that only officers that have been trained on the LPR's will be assigned to those cars. If there is a hit it immediately sends an alert. If time permits, they will confirm with dispatch that the car is, in fact, stolen. They will alert supervisors and cover officers of their location.

Commissioner Navarro asked if they could have a demonstration on how the LPR's work. He also wanted to know how many stolen cars are recovered each week.

Capt. Williams said he will talk to the chief about a demonstration. He said he did not have the specific data on the number of stolen cars recovered each week.

Chair Hunziker asked what reason there was to retain data beyond a 30 day period.

Capt. Williams said that hard gang units have a lot of institutional knowledge about gangs and gang members. If they spot certain gang members in a vehicle in a rival gang territory, they can look up the license plate to check and see if it's wanted for anything or if it's been scanned in other areas where there have been incidents against a rival gang. It will give them more of an investigative tool going forward about what activities these people are involved in. Also, they have the ability to search for vehicles with only a partial license plate.

Chair Hunziker said he wants to find a way where they don't have to hold on to data for a whole year. If some cities only retain data for 30 days and the CHP for 60, it should work that way for Richmond also.

Investigator Terry Simpson asked if the data was subject to civil subpoena and if the data is retrievable in an investigation that he may have to conduct for the police commission on a citizen's complaint. **Capt. Williams** said he will find out if the data was subject to civil subpoena and current policy only involves criminal investigations and only through the legal means for the DA's office and other law enforcement agencies.

Chair Hunziker asked **Capt. Williams** to get back to the commission with overall statistics of how many scans have been performed since the official RPD LPR's have been in use, as well as how many were hits and how many were actual serious crimes.

Commissioner Gillespie asked **Capt. Williams** about the recommendations he will be making to the chief. **Capt. Williams** said it pertains to language in the retention area where they are not containing anything on any server at RPD and the policy states that they are. He will be correcting that.

Chair Hunziker said that the second paragraph on page two needs to be changed from a minimum of one year to a maximum of one year.

Commissioner Gillespie said that the subcommittee for policy review can further discuss this policy and make any recommendations. The subcommittee includes himself, **Commissioner Stephenson** and **Chair Hunziker**.

Commissioner Gillespie made a motion to send this to the policy subcommittee and let that subcommittee make a recommendation for changes to the commission as a whole at the next meeting. It was seconded by **Commissioner Bautista**. All were in favor.

X REPORT OF COUNCIL LIAISON JAEL MYRICK

Councilmember Myrick apologized for being late. He was presenting a resolution to the County Board of Education regarding the potential closing of Kennedy High School. He gave an update on the Lawrence Berkeley National Lab. He said they are still very excited about the Richmond site and the potential for growth there. He said everything should be approved sometime next year. They are already working collaboratively with the city on making sure they can expand some of the programs that they have.

Commissioner Navarro asked if they will be having community events at the Richmond campus like they do at the Berkeley campus. **Councilmember Myrick** said he thinks that they want to do various community events here in Richmond also.

Commissioner Roberson said that the most impressive thing that she heard at last night's council meeting was the fact that they see there will be a lot of jobs available to people in the Richmond communities. **Councilmember Myrick** said they are also looking into bio-lab incubators that will bring more businesses into the city which could employ more people as well.

Commissioner Navarro suggested that the city increase local hiring in general from 33% to 50%. **Councilmember Myrick** said he will look into it.

Chair Hunziker asked **Asst. City Attorney Soublet** if outside community members could attend the policy subcommittee meeting. **Mr. Soublet** said he would get a response back to him.

XI REPORTS BY:

- **CHAIRPERSON**
- **COMMISSIONERS**
- **STAFF**

Commissioner Roberson

- Ride-along
- Attended RNCC meetings
- Attended Council meetings
- Attended Crime Prevention meetings
- Working on Health and Safety Fair with Richmond RFD/OES, El Cerrito and San Pablo that will be this Saturday

Commissioner Bautista

- Attended Swearing In Ceremony

Commissioner Navarro

- Reported that there will be a volunteer opportunity to help rebuild Belding Garcia Park on 10/26

Commissioner Stephenson

- Attended North/East neighborhood council meeting

Commissioner Velazquez

- Attended National Night Out
- Attended CeaseFire Walk
- Attended Gun Buy Back
- Offered to volunteer at Homefront Festival

XII CLOSED SESSION

A. Discussion and Action regarding RPC Complaint #01-2012

Upon motion and second, the report for RPC Complaint #01-2012 and findings of **Unsubstantiated** for allegations of excessive/unnecessary force and racially abusive treatment were accepted.

The Complainant, Officers, and Chief of Police will be notified in writing of the findings regarding this complaint.

XIII ADJOURNMENT

The meeting was adjourned at 9:30 p.m.

Felix Hunziker, Chair