

**LOS ANGELES POLICE DEPARTMENT
BOARD OF POLICE COMMISSIONERS
CITY OF LOS ANGELES
MINUTES**

REGULAR MEETING – TUESDAY, FEBRUARY 15, 2005

The Board of Police Commissioners of the City of Los Angeles convened in regular session Tuesday, February 15, 2005, at 9:40 a.m., in the Parker Center Auditorium, Los Angeles. On calling the roll, the following members were present: Commissioners Cunningham III, Skobin, Caruso, and Ochi. President Cunningham presiding. Commissioner Alarcon was absent.

PRESENT: William J. Bratton, Chief of Police
Richard M. Tefank, Executive Director
Mark Burton, Senior Assistant City Attorney
Julie Valenzuela, Commission Executive Assistant
Jill Bogle, Hearing Reporter
Officer Troy Abordo, Sergeant-at-Arms
Detective Tom Butler, Sergeant-at-Arms
Detective Dan Debellis, Sergeant-at-Arms
Detective Ben Jones, Sergeant-at-Arms
Officer Ernesto Vicencio, Sergeant-at-Arms
Detective Aaron Bankhead, Sergeant-at-Arms
Detective Gilbert Silva, Sergeant-at-Arms

At this time, Mayor Hahn addressed the Board and requested that the Commission adopt the new Special Order - Shooting at or from Moving Vehicles in a timely manner.

The following person addressed the Board:

Tut Hayes.

The public hearing was closed.

1. APPROVAL OF MINUTES FOR:

NONE.

2. REPORT OF CHIEF OF POLICE

Chief Bratton gave the Department's "weekly crimes year to date" statistical report for the period ending February 12, 2005.

Chief Bratton reported that he attended a meeting with Mayor Hahn and Councilmember Smith, Council District 12 regarding the signing of Vehicle License Fee (VLF) Funds which would enable the Department to hire 287 additional police officers.

The following person addressed the Board:

Tut Hayes.

The public hearing was closed.

3. REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Tefank reported that the Photo Red Light Contract would be calendared for Commission meeting in late March 2005.

President Cunningham directed Executive Director Tefank to review the Use of Force Policy and report back to the Commission.

4. REPORT OF THE INSPECTOR GENERAL

Inspector General Birotte stated that he was a guest speaker at the Los Angeles Urban Policy Roundtable meeting.

Inspector General Birotte reported that his office had hired another Special Investigator who would be joining his staff within the next two months.

5. COMMISSION BUSINESS

President Cunningham announced that a Days of Dialogue had been scheduled for Thursday, 2/17/05 at the California African American Museum, which is being hosted by Assemblyman Mark Ridley-Thomas.

President Cunningham presented Verita DeHesa with a Certificate of Appreciation for 27 years of service to the City of Los Angeles.

President Cunningham also presented Julie Valenzuela with her 20-year service pin.

6. INFORMATION – FILED ITEMS

Information items on file, submitted for the period ending February 11, 2005.

RECEIVED and FILED.

7. CONSENT AGENDA ITEMS

At this time, Item No. 7-B was taken out of order.

7-B. SPECIAL EVENT PERMIT - REVIEWED - APPROVED

CONTINUED FROM 02/01/05

DEPARTMENT'S REPORT regarding a request filed by Nick Curl representing the Los Angeles Marathon, Inc.; for a Special Events Permit for the City of Los Angeles Marathon XX; Acura LA Bike Tour; Emerald Nuts 5K event on Sunday, March 6, 2005, as set forth.

[BPC #05-0026]

Recommendations for Board action:

1. APPROVE the Department's report.
2. APPROVE the Special Events Permit for the City of Los Angeles Marathon XX; Acura LA Bike Tour; Emerald Nuts 5K event.

The above matter was REVIEWED with Captain McCarthy, Special Operations Support Division, Michael Nagle, Deputy City Attorney, and Ali Mondavi, Department of Transportation.

The following persons addressed the Board:

Reverend Donald Colhour, Reverend Benjamin Wyatt, Juan Bautista Cantillo, Reverend John Franck, Frank Kim, Reverend John Song, Jung Lee, Suk Pyong Lee, Mose Cho, Ryul Kim, John McClendon, Tut Hayes, Fred McCullen, and Reverend Simon Yun.

The public hearing was closed.

Commissioner Skobin moved, seconded by Commissioner Ochi, to APPROVE the above matter. Unanimously APPROVED.

7-A. VARIANCE - APPROVED

DEPARTMENT'S REPORT regarding a request for variance to Los Angeles Municipal Code Section 41.40 from B.K. Signs Incorporated to permit nighttime construction beginning on Thursday, February 17, 2005 from 9:00 p.m. to 6:00 a.m. and will be completed on Saturday, February 19, 2005 for the work site located at 650 South Hill Street and 639 South Broadway, as set forth.

[BPC #05-0036]

Recommendation for Board action:

1. Retroactively APPROVE the Department's report and request for variance.

Commissioner Skobin moved, seconded by Commissioner Ochi, to APPROVE the above matter. Unanimously APPROVED.

At this time, the Board took up Item No. 2-A from the Supplemental Agenda.

2-A. **REVIEWED – ENTIRE MATTER CONTINUED – (SEE DETAILED MINUTES FOLLOWING)**

DEPARTMENT'S REPORT regarding Revision of Department Manual Section 1/556.40 – Shooting at or from a Moving Vehicle and proposed SPECIAL ORDER [BPC # 05-0045]

Recommendations for Board action:

1. REVIEW and APPROVE the Department's Report.
2. REVIEW and ADOPT the proposed Special Order "Shooting at or from Moving Vehicles".

The above matter was REVIEWED with Chief Bratton and Deputy Chief Papa, Office of Support Services.

The following persons addressed the Board:

John Mack, Bob Baker, Connie Rice, Monica Harmon, Ted Hayes, Keith Hardine, Don White, Ricardo Garcia, Big Money Griff, Norm Swirin, and Tut Hayes.

The public hearing was closed.

Commissioner Skobin moved, seconded by Commissioner Ochi to modify the policy as follows:

SHOOTING AT A MOVING VEHICLE. Firearms shall not be discharged at a moving vehicle unless a person in the vehicle presents an immediate threat of death or serious bodily injury to the officer or another person. For the purposes of this section, the moving vehicle itself **shall not** constitute a threat that justifies the officer's use of deadly force unless the actions of the driver clearly demonstrate the driver's intention to assault the officer or another person in a manner likely to result in death or serious bodily injury. Officers shall not intentionally stand and/or step in the path of a moving vehicle.

Whenever possible, an officer threatened by an oncoming vehicle shall move out of its path, unless doing so will put or leave the officer or another person in immediate threat of death or serious bodily injury. Firearms shall not be discharged from a moving vehicle, except in both immediate defense of life and exigent circumstances.

This motion was WITHDRAWN.

Commissioner Caruso moved, seconded by Commissioner Ochi, to create a Task Force consisting of the Chief of Police, President Cunningham, Commissioner Skobin and Department staff to revise the proposed special order and report back to the Board with modifications. Unanimously APPROVED.

8. REGULAR AGENDA ITEMS

At this time, Item No. 8-F was taken out of order.

8-F. REVIEWED – DEPARTMENT’S REPORT APPROVED

DEPARTMENT’S REPORT in response to Board query regarding the role and responsibilities of the Board of Police Commissioners during a major unusual occurrence/terrorism incident, as set forth. [BPC #05-0038]

Recommendations for Board action:

1. REVIEW and APPROVE the Department’s report (briefing paper).
2. DIRECT Commission Investigation Division (CID) to develop a Commissioner Escort and Secure Transportation Protocol utilizing the sworn personnel assigned to CID.

The above matter was REVIEWED with Mr. Miller, Counter Terrorism and Criminal Intelligence Bureau.

Commissioner Ochi moved, seconded by Commissioner Skobin, to APPROVE the above matter. Unanimously APPROVED.

At this time, Item Nos. 8-A and 8-B were taken up together.

8-A. REVIEWED – DEPARTMENT’S REPORT APPROVED – TRANSMIT TO BUDGET AND FINANCE COMMITTEE – (SEE DETAILED MINUTES FOLLOWING ITEM NO. 8-B)

DEPARTMENT’S REPORT regarding a monthly update on the funding and staffing needs for the Mission Area Police Station, as set forth. [BPC #05-0040]

Recommendations for Board action:

1. REVIEW and APPROVE the Department's report.
2. TRANSMIT to the Budget and Finance Committee.

8-B. REVIEWED – DEPARTMENT'S REPORT APPROVED – TRANSMIT TO BUDGET AND FINANCE AND PUBLIC SAFETY COMMITTEES – (SEE DETAILED MINUTES FOLLOWING)

DEPARTMENT'S REPORT regarding a monthly update on funding for sworn positions in the Police Department, as set forth. [BPC #05-0017A]

Recommendations for Board action:

1. REVIEW and APPROVE the Department's report.
2. TRANSMIT to the Budget and Finance and Public Safety Committees.

Commissioner Skobin moved, seconded by Commissioner Ochi, to APPROVE the Department's reports attached to Item Nos. 8-A and 8-B, TRANSMIT Item No. 8-A to the Budget and Finance Committee, and TRANSMIT Item No. 8B to the Budget and Finance and Public Safety Committees. Unanimously APPROVED.

At this time, Item Nos. 8-C, 8-J, and 8-K were taken up together.

8-C. REVIEWED – DEPARTMENT'S REPORT APPROVED - OFFICE OF THE INSPECTOR GENERAL'S REPORT APPROVED – (SEE DETAILED MINUTES FOLLOWING ITEM NO. 8-K)

DEPARTMENT and OFFICE OF THE INSPECTOR GENERAL'S REPORTS regarding the Gang Enforcement Detail Work Product Pattern Assessment Audit, Third Quarter Fiscal Year 2003/2004, as set forth. [BPC #04-0643 and #04-0643A]

Recommendations for Board action:

1. REVIEW and APPROVE the Department's report.
2. REVIEW and APPROVE the Office of the Inspector General's report.

8-J. REVIEWED – OFFICE OF THE INSPECTOR GENERAL’S REPORT APPROVED – (SEE DETAILED MINUTES FOLLOWING ITEM NO. 8-K)

CONTINUED FROM 11/30/04

OFFICE OF THE INSPECTOR GENERAL’S REPORT regarding a review of the Department’s Gang Enforcement Detail Work Product, Fourth Quarter Fiscal Year 2003/2004, which was previously approved at the Board meeting of November 30, 2004, as set forth.

[BPC #04-0437C]

Recommendation for Board action:

1. REVIEW and APPROVE the Office of the Inspector General’s report.

8-K. REVIEWED – DEPARTMENT’S REPORT APPROVED - OFFICE OF THE INSPECTOR GENERAL’S REPORT APPROVED – (SEE DETAILED MINUTES FOLLOWING)

CONTINUED FROM 12/14/04

DEPARTMENT and OFFICE OF THE INSPECTOR GENERAL’S REPORT regarding the Supplemental Audit to the Gang Enforcement Detail Non-Categorical Use of Force reports Audit Supplemental (submitted Fourth Quarter Fiscal Year 2003/2004), as set forth.

[BPC #04-0737 and 04-0737A]

Recommendations for Board action:

1. REVIEW and APPROVE the Department’s report.
2. REVIEW and APPROVE the Office of the Inspector General’s report.

Item Nos. 8-C, 8-J and 8-K were REVIEWED with Mr. Chaleff, Consent Decree Bureau and Inspector General Birotte.

Commissioner Ochi moved, seconded by Commissioner Skobin, to APPROVE the reports attached to Item Nos. 8-C, 8-J, and 8-K. Unanimously APPROVED.

8-D. REVIEWED – DEPARTMENT’S REPORT APPROVED – TRANSMIT TO PUBLIC SAFETY COMMITTEE

DEPARTMENT’S REPORTS regarding the Consent Decree Gang Enforcement Detail Status Report for the month of January 2005 and the monthly recapitulation of search warrants authored and firearms seized by the Gang Impact Teams for the month of January 2005, as set forth.

[BPC #05-0037 and #05-0037A]

Recommendations for Board action:

1. REVIEW and APPROVE the Department's reports.
2. TRANSMIT to the Public Safety Committee.

The above matter was REVIEWED with Commander Roupoli, Special Operations Bureau.

Commissioner Ochi moved, seconded by Commissioner Skobin, to APPROVE and TRANSMIT the above matter. Unanimously APPROVED.

8-E. REVIEWED – DEPARTMENT'S REPORT APPROVED – TRANSMIT TO PUBLIC SAFETY COMMITTEE

DEPARTMENT'S REPORT in response to City Council motion (Council File No. 04-1141) regarding animal cruelty crimes, as set forth. [BPC #05-0042]

Recommendations for Board action:

1. REVIEW and APPROVE the Department's report.
2. APPROVE in concept, the proposal for the Police Department in partnership with the Department of Animal Services, to expand the City's law enforcement role in the investigation of animal abuse and "blood-sport" animal fighting.
3. TRANSMIT to the Public Safety Committee.

The above matter was REVIEWED with Deputy Chief Papa, Office of Support Services and Bob Ferber, City Attorney's Office.

The following person addressed the Board:

Tut Hayes.

The public hearing was closed.

Commissioner Ochi moved, seconded by Commissioner Skobin, to APPROVE and TRANSMIT the above matter. Unanimously APPROVED.

At this time, Item Nos. 8-G and 8-H. were taken up together.

8-G. APPROVED – (SEE DETAILED MINUTES FOLLOWING ITEM NO. 8-H)

DEPARTMENT'S REPORT regarding a request for Travel Authority for the Chief of Police from January 6, 2005 through January 9, 2005, to meet with City and police officials regarding technology advancement in Chicago Illinois, as set forth. [BPC #05-0041]

Recommendation for Board action:

1. Retroactively APPROVE the Department's report and Travel Authority request.

8-H. APPROVED – (SEE DETAILED MINUTES FOLLOWING)

DEPARTMENT'S REPORT regarding a Personal Expense Statement for the Chief of Police for expenses incurred during a trip to Chicago, Illinois from January 6, 2005 to January 9, 2005, in the amount of \$655.57, as set forth. [BPC #05-0041A]

Recommendation for Board action:

1. REVIEW and APPROVE Department's report and Personal Expense Statement.

Commissioner Skobin moved, seconded by Commissioner Ochi, to APPROVE the reports attached to Item Nos. 8-G and 8-H. Unanimously APPROVED.

8-I. DEPARTMENT'S REPORT RECEIVED – DIRECTION GIVEN TO OFFICE OF THE INSPECTOR GENERAL

DEPARTMENT'S REPORT regarding the Ethics Enforcement Section Quarterly report, Fourth Quarter 2004, as set forth. [BPC #05-0039]

Recommendations for Board action:

1. RECEIVE the Department's report.
2. DIRECT the Office of the Inspector General to submit an analysis of this report along with any appropriate recommendations to the Board.

The above matter was DISCUSSED with Inspector General Birotte.

The Board RECEIVED the Department's report and DIRECTED the Office of the Inspector General to review the Department's report and to submit an analysis of this report.

The Commission INSTRUCTED Inspector General Birotte to look at the failure rates in this quarterly report and determine if they were random audits or targeted audits.

9. PUBLIC COMMENT PERIOD

The following persons addressed the Board on general issues:

Tut Hayes and Mr. Juarez.

The public hearing was closed

At this time, Ms. Valenzuela announced that the Board would recess to Closed Session to discuss Item No. 10-A through 10-B, pursuant to Government Code Section 54957.

10. CLOSED SESSION ITEMS

10-A. NOT DISCUSSED – ENTIRE MATTER CONTINUED

CONTINUED FROM 02/01/05

CONFERENCE WITH LABOR NEGOTIATOR. Discussion and bargaining instructions to the Employee Relations Administrator regarding Meet and Confer procedure for Financial Disclosure, pursuant to Paragraph 132 of the Consent Decree. Government Code Section 54957.6.

10-B. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE/PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Review of Officer Involved Shootings, Law Enforcement Related Injuries, Upper Body Control Hold, and other personnel matters. Government Code Section 54957.

10B-1. REVIEWED - ADOPTED

CONTINUED FROM 02/08/05 – (Upper Body Control Hold - UBCH)

1. UBCH #026-04
Two Police Officers III
Four Police Officers II

10B-2. ENTIRE MATTER CONTINUED TO 02/22/05

CONTINUED FROM 02/08/05 - (Law Enforcement Related Injury - LERI)

2. LERI #038-04
One Sergeant I
Two Police Officers III
Five Police Officers II

10B-3. REVIEWED - ADOPTED

3. (Officer Involved Shooting – OIS)
OIS #021-04
Three Police Officers III
Two Police Officers III + II
Two Police Officers II

10B-4. REVIEWED - ADOPTED

4. OIS #023-04
One Sergeant I
Two Police Officers III
Eight Police Officers II

