



**WORKSHOP / SPECIAL MEETING
MINUTES
for
Wednesday, December 22, 2004
3:00 P.M. – Council Chamber Boardroom
and
5:00 P.M. - Art Pick Council Chambers
3900 Main Street, Riverside, CA**

WORKSHOP – 3:00 P.M.

1) Roll Call

Present: Commissioners Brewer, Davidson, Corral, Garcia, Gardner, Percy, and Ward,

Absent: Commissioner Huerta and Quinto

2) Public Comment

Tom Evans, Interim City Manager, advised the Commission that Don Williams, CPRC Executive Director, was being reassigned to the Police Department and that Pedro Payne, Executive Director of the Human Relations Commission (HRC) would be the interim director of the CPRC. Mr. Evans said that Mr. Payne's placement over the both commissions was on an interim basis for 6 – 12 months, but that they would look at how things were going in three months.

Several commissioners expressed concern that Mr. Payne, while educated, had no law-enforcement experience or background to qualify him as director of the CPRC. Commissioner Corral said it might be a good thing and that the Commission should give Mr. Payne a chance.

3) Rene Guevara Officer-Involved Death Case

The commissioners continued to work on developing a public report regarding the Rene Guevara officer-involved death on December 15, 2003.

The Commission recessed at 4:55 p.m. to reconvene in the Council Chambers.

SPECIAL MEETING – 5:00 P.M.

**The following proceedings have been digitally recorded.
For copies, please call the CPRC office at (951) 826-5509.**

Chairman Gardner led in the Pledge of Allegiance. Chairman Gardner asked Ms. Sherron to confirm commissioner attendance.

Roll Call

Present: Commissioners Brewer, Davidson, Corral, Garcia, Gardner, Percy, and Ward,

Absent: Commissioner Huerta and Quinto

4) Public Comment

Mary Shelton said that she and some members of the RCPA had a positive discussion with Lt. John Wallace, head of RPD's Attorney General Task Force, regarding the use of audio recorders. She said he the policy was going to be reexamined.

She commented on Interim City Manager Tom Evans memo regarding the consolidation of the Human Relations Commission and the Community Police Review Commission under one director. She said that voters of Riverside wouldn't be fooled and asked how can the CPRC's Executive Director job be divided between two commissions. She said it's an obvious sign that some councilmembers are being directed by money.

5) Volne Stokes Officer-Involved Death Case

Officer Tina Banfill Gould came before the Commission to cure the deficiencies of her previous appearance. Officer Gould was sworn in by Colleen Nicol, City Clerk.

Chairman Gardner thanked Officer Banfill Gould for returning and asked that she state her name for the record, to which she responded, "Tina Banfill." Chairman Gardner asked her how she was employed, to which she answered, "I am employed by the City of Riverside Police Department." He asked if she was so employed on May 27, 2003, to which she replied, "Yes, I was."

Chairman Gardner – Can you tell us how you came to be at the Marguerita and Esperanza on that date?

Officer Banfill - On the advice of my attorney, I decline to answer that question as part of my Fifth Amendment rights.

Chairman Gardner – Can you tell us what you observed as you approached that scene in your car?

Officer Banfill – Again, on the advice of my attorney, I decline to answer that question as part of my Fifth Amendment rights.

Chairman Gardner - Did you immediately identify the car and subject, Mr. Stokes, as the subject of the call?

Officer Banfill - On the advice of my attorney, I decline to answer that question as part of my Fifth Amendment rights.

Chairman Gardner - Did Mr. Stokes make eye contact or indicate in any way that he was aware of your presence as you approached his vehicle?

Officer Banfill - On the advice of my attorney, I decline to answer that question as part of my Fifth Amendment rights.

At this point, special counsel for the Commission, Jim Touchstone, asked Officer Banfill if it was her intent to assert her Fifth Amendment rights in response to any substantive questions that the Commission would ask regarding the shooting death of Volne Stokes, to which she replied, "Yes, it is." Mr. Touchstone thanked Officer Banfill for appearing in compliance with the Commission's subpoena.

Chairman Gardner said he was glad to have cured the subpoena, but was unhappy that they couldn't get the information they wanted for the public report. He said he feels it reflects poorly on the City and the Police Department and that it was now up to the Commission to decide on whether or not to go through with a public report without Officer Banfill's comments. He noted that the Internal Affairs report contains the compelled statement, but that it can't be used in public report. He said he was aware that some commissioners felt a public report shouldn't be issued if Officer Banfill's statement isn't included.

Commissioner Percy said he couldn't criticize her for exercising her Fifth Amendment rights. He stated that the CPRC report isn't a criminal report, but that it's difficult to issue a report without all the information regarding the incident. He said the Commission would be able to address technical aspects, but they're operating in a vacuum with regard what led up to the incident. He said they might want to consider issuing a report after a review of the Internal Affairs report. Chairman Gardner said the Commission can't make a public report after the Internal Affairs report has been seen. He did agree that it would be good to know why Officer Banfill did some of the things she did, but feels that there are still training issues that could be addressed.

Commissioner Percy said that his concern is that the Commission would be issuing a report that is based on incomplete information. He suggested that the Commission issue a report that is limited to what information is available with an administrative report issued later on. Chairman Gardner said that the Commission could publish a report that is limited in information.

Commissioner Brewer commented that the information in a public report would be the same as what was in the newspaper.

Commissioner Ward said that Officer Banfill's input is needed for the public report. He said he is concerned that an officer has taken a life and that the RPD has been unable to get her to cooperate and determine if that was legal or illegal. He questioned how she could exercise these rights and still remain employed.

Chairman Gardner said it isn't the Commission's role to determine if an officer's actions are legal or not. He said the Commission makes recommendations as to whether or not the officer's actions were within in policy. He noted that the Commission still has the ability to ask questions regarding the Internal Affairs report and that he feels the Commission will have decent information after it has reviewed that report. He also stated that an officer's employment is the sole purview of police chief.

Commissioner Davidson said the Commission is charged to report to the community if an officer violated policy. He said the Commission is not in a position to make a report and that the main objective is to let the public know about facts. Commissioner Brewer said that none of the Commission's public reports comment on policy as that is not part of the public report.

Commissioner Percy asked what the purpose was of issuing a public report. He said it would just be a regurgitation of what is already known and that he was uncomfortable issuing a report with only half the information.

Commissioner Percy then made a motion not to issue a public report. Commissioner Ward seconded the motion.

Chairman Gardner said that no matter what the Commission does, it is open to criticism. He said he felt the Commission would commit a greater sin by not sharing what it knows than by sharing it.

Commissioner Garcia said that the Commission needs to publish something addressing its decision in this case.

Commissioner Percy noted that the position taken by the officer in this instance is not the norm but asked if the Commission was unintentionally providing a method for a further shutdown of information. Chairman Gardner said this only happens when an officer declines to be interviewed by the shooting team and so far, this is the only time it has happened.

Commissioner Davidson said he feels its a prime example of how the public should be served. He said he feels that a report shouldn't be issued if you don't have complete information. He said the report has to stand on its own because of its content and that he feels the wrong message would be sent if the report were issued.

Mary Shelton said she agreed that not issuing a report says more. She said the officer has the right to take Fifth, but that she's still disappointed. She said the only good thing that happened was that by taking the Fifth, the officer and the RPOA recognized the CPRC's right to issue subpoenas. She said she doesn't want to look at public report that consists of what's already out there and that she doesn't see any point in issuing a public report. She said that officers have the right to use lethal force in certain circumstances, but they should also give a public accounting of their actions.

Chairman Gardner asked for a vote on the motion to not issue a public report. The motion passed 4 – 3 not to issue the report.

6) Briefing Regarding the Death of Summer Lane

Capt. Jim Cannon briefed the Commission regarding the officer-involved death of Summer Lane on December 6, 2004. Using a photo of the scene, Capt. Cannon described the incident scenario.

Some of the questions posed to Capt. Cannon after his briefing were:

- Was the officer in uniform? (Commissioner Percy)
 - Yes, he was a uniformed patrol officer
- Did anyone else try to intervene? (Commissioner Percy)
 - No.
- What did the security guard do, did he just walk away? (Commissioner Corral)
 - No. He is a witness.
- Any idea what made the officer think that the lady in car was more of a threat? (Commissioner Ward)
 - The car hit him at least three, maybe four times.
- The car ran over the officer? (Commissioner Davidson)
 - Yes, over his left leg.
- Was she in reverse each time she hit the officer? (Commissioner Garcia)
 - No. The majority of the time she was going forward; she would accelerate, back up, then accelerate again.
- How long from the time he contacted the suspect to when he fired? (Commissioner Corral)

- Four minutes.
- No other officers were on scene until after the shooting? (Chairman Gardner)
 - Right.
- Did all rounds hit suspect or go elsewhere and were found? (Commissioner Garcia)
 - All rounds were accounted for.

Mary Shelton commented that this is the second officer-involved shooting for this officer. Chairman Gardner said the Commission would look at the officer's background and training.

The Commission adjourned at 7:30 p.m.

Respectfully submitted,


PHOEBE SHERRON
Sr. Office Specialist