

**CITY OF LOS ANGELES
BOARD OF FIRE COMMISSIONERS
MINUTES
TUESDAY, SEPTEMBER 21, 2010**

The Regular Meeting of the Board of Fire Commissioners convened at 9:08 a.m. in the Fire Commission Meeting Room, City Hall East, 200 N. Main Street, Room 1820, Los Angeles.

▪ **ROLL CALL**

Present: President Genethia Hudley-Hayes
Vice President Casimiro Tolentino
Commissioner Diana Bontá
Commissioner Jill Furillo
Commissioner Andrew Friedman
Fire Chief Millage Peaks
Deputy City Attorney Janet Jackson

▪ **FLAG SALUTE AND MOMENT OF SILENCE**

The flag salute was followed by a moment of silence in honor of past and present members of the Los Angeles Fire Department who devote their lives to the protection of the community.

1. PUBLIC COMMENT

Troy Westbrook, Stentorians, commented that the Battalion Chief's exam has been changed and will not consist of an in-basket process. Instead there will be an essay portion. Wants to know why exam has been changed.

2. COMMISSION BUSINESS

A. Announcements/Meetings/Events
Considered jointly with Item 3.A.

B. [BFC 10-089] - Approval of Meeting Minutes for July 20, 2010
MOTION (Friedman/Bontá): That the Board approves the minutes as submitted.
ADOPTED: AYES – 5

C. [BFC 10-090] - Approval of Meeting Minutes for August 17, 2010
MOTION (Furillo/Tolentino): That the Board approves the minutes as submitted. **ADOPTED:** AYES – 5

3. GENERAL MANAGER'S REPORT

A. Announcements/Meetings/Events
Items 2.A. and 3.A. considered jointly. Fire Chief Peaks acknowledged those who participated in the success of the Field Data Capture System and the Emergency Medical Services Billing and Collection System. Fire Administrator Georgia Mattera thanked the numerous parties involved in the project.

"Certificates of Appreciation" presentation to members of the Fire Department, City Attorney's Office, Information Technology Agency, City Administrative Office and Chief Legislative Office recognizing their collaborative efforts in garnering City Council approval for the Field Data Capture System and the Emergency Medical Services Billing and Collection System contracts.

BOARD OF FIRE COMMISSIONERS
MINUTES
TUESDAY, SEPTEMBER 21, 2010

Fire Chief Peaks reported on past and future events, including a Topping Off Ceremony on August 19th at Fire Station 82, hosted by Councilmember Tom LaBonge; "Honorary Fire Chief for the Day" Mr. Stan Chambers was honored; and the 9/11 Memorial Ceremony on September 10th at Fred Hotchkin Memorial Training Center. September is Disaster Preparedness Month and on September 25th there will be a March for Justice. Chief Peaks invited everyone to the LAFD Fallen Firefighters Memorial at the Museum at the Fallen Firefighter Memorial on October 9th from 1000 to 1200 hours.

B. Significant Incidents/Activities:

1. [BFC 10-107] – Significant Incident Summary report for the period of August 31 through September 6, 2010.
Recommendation: Receive and file.
The report was received and filed.
2. [BFC 10-109] – Significant Incident Summary report for the period of September 6 through September 13, 2010.
Recommendation: Receive and file.
The report was received and filed.

Deputy Chief Rueda provided information on two significant structure fires; one was in Benedict Canyon and nearly 1,500 feet up a very narrow driveway, which required the transport of equipment, lots of resources up to a single-family residence. The second was an apartment house fire in the Wilshire District, in a sixth floor attic. It also required a significant effort by firefighters to get enough resources and equipment. Neither fire involved injuries. Both fires utilized nearly a tenth of the Department's fire fighting force on those days. LAFD also supported LAPD in a number of protest marches in the McArthur Park area. No major injuries, but LAFD did transport a few patients and police officer with minor injuries.

Commissioner Diana Bontá inquired regarding the difficulties of the Wilshire fire. Deputy Chief Rueda stated the fire occurred about 8:30 a.m., the apartment management company alerted a number of people on the top floor, most people were evacuated. Firefighters had to combat a significant fire in the attic space and lots of equipment and resources had to be moved up six floors in addition to cutting open and ventilating the roof. Firefighters had to pull the ceiling, conduct salvage on top floor to save belongings and also conduct a systematic search of all the apartment units. There are a lot of jobs that must get done simultaneously in addition to the support functions, making sure to set up a medical component for firefighters and residences, and aftermath and cleanup.

C. Verbal report from Department of status of the Modified Coverage Plan (MCP), including discussion of seasonal variances and temporary suspensions based on departmental needs.

Chief Brian Cummings reported Fire Department has been on the MCP for 404 days and accumulated approximately \$8.8 million in savings by offsetting overtime. Since August 15, 2010 an additional Battalion Office and a Division Office were added to the modified coverage closures.

BOARD OF FIRE COMMISSIONERS
MINUTES
TUESDAY, SEPTEMBER 21, 2010

Commissioner Friedman asked if within the last month have there been any significant problems as a result of the Modified Coverage Plan. Chief Cummings stated statistically they have not realized any increases in the average response time. However, with fewer resources deployed, there is always an impact on operations. No significant injuries as a result of the MCP have been confirmed.

President Hudley-Hayes requested that Fire Chief Peaks discuss an L.A. Times article that indicated that the City Council is considering taking away more resources and possible station closures, at the next Board meeting.

4. OLD BUSINESS

A. [BFC 10-045] – Fire Department response to the Assessment of the Department Disciplinary Process and Professional Standards Division conducted by the Office of the Independent Assessor [BFC 10-027]

1. [BFC 10-091] – LAFD Implementation Action Plan (IAP) – Department's response to the 2010 Independent Assessor Audit (Revised 08/31/2010; Supersedes BFC 10-085)
Recommendation: Receive and file.
2. [BFC 10-103] – Progress Report on the Department's Response to the Independent Assessor Report on the Department's Disciplinary Process an the Professional Standards Division
Recommendation: Receive and file.

B. [BFC 10-046] – Fire Department response on Disciplinary Guideline Comparison

Items 4.A. and 4.B. considered jointly. President Hudley-Hayes apologized to Chief Cummings regarding the mix-up regarding her previous request for a CD version of BFC 10-085.

Chief Cummings confirmed that BFC 10-091 on CD had been simplified, and the CD and hard copy versions will be updated as needed. Future updates to the CD will include a new revision date and history will be included. Chief Cummings summarized BFC 10-103 as a progress report to date. He reported he is meeting on a bi-weekly basis with Chief Officers assigned to the various action items.

Regarding Acton Item #1, Commissioner Friedman suggested that the goal should be to determine how best to proceed, rather than to fault-find.

President Hudley-Hayes stated she would meet with Vice President Tolentino to discuss re-starting the Stakeholders Group regarding the three different versions of the Disciplinary Guidelines. The goal will be to combine the three versions, bring them to Commission and through the meet and confer process in the interest of transparency, communication and inclusion. The Stakeholders process, nor the Commission, can supplant meet and confer process. A meeting needs to occur with the Stakeholders to follow the process addressed in the City Attorney's Opinion.

BOARD OF FIRE COMMISSIONERS
MINUTES
TUESDAY, SEPTEMBER 21, 2010

Deputy City Attorney, Janet Jackson, stated it would be appropriate to take a vote on this item and the approach to go to Stakeholders, as there is a different make-up of the Board than several years ago.

PUBLIC COMMENT: Pat McOsker, UFLAC, commented he was involved with the Stakeholders, but pulled out of the process, as an earlier Fire Chief was not following the process. He wants to work with Commission, follow the rules and confirm what the rules are in order to avoid 'direct dealing'.

President Hudley-Hayes stated the Stakeholders process is wholly a Commission process. There are three separate sets of Disciplinary Guidelines and this should not be the case. Upon completion of Stakeholders process, UFLAC absolutely is the bargaining unit and it will still need to go to meet and confer, then back to the Commission to see what was agreed to, where there might not be agreement, etc. Stakeholders' process is within purview of the Commission. She agreed that UFLAC pulled out of the process, but when the leadership of the union changed, UFLAC returned to the process.

Vice President Tolentino stated the Stakeholders included UFLAC, as they were an integral part of the conversation. UFLAC leadership raised the issue of meet and confer, and the Commission agreed. Chief Officers were also a part of the Stakeholders process. The Commission then gave some guidance to those bargaining units, but was not making final decisions. In fact, decisions had to be brought forth to the Board and the goal was to bring everyone to a common page and to look specifically at issues, not to look for blame.

ACTION: MOTION: (Friedman/Tolentino): That the Board receive and file BFC 10-091 and BFC 10-103 and this matter be referred to a meeting of the Stakeholders under the direction and leadership of President Hudley-Hayes.
ADOPTED: AYES – 4 **ABSTAINED** – 1 (Furillo)

5. NEW BUSINESS

- A. [BFC 10-108] – Discussion and Possible Commission Action Regarding the Presentation by the *Los Angeles Fire Department Foundation*.

Fire Chief Peaks introduced Karen Wagener, Executive Director, *Los Angeles Fire Department Foundation* and Founding Director, Mr. Bruce Corwin.

Ms. Wagener stated the Foundation was incorporated in February 2010, received their 501(c)(3) designation in July 2010, and she started with the Foundation August 2, 2010. City governments and municipal governments have been very pressed financially and over the last decade foundations to support municipal departments have become quite common, particularly in policing and law enforcement. In the City of Los Angeles there are foundations for Police, Library, Fire, Recreation and Parks and emergency management.

The mission of the Foundation is to create partnerships to provide resources for the Los Angeles Fire Department, such as equipment, services, programs, technology, etc. The Foundation is positioned to respond to an urgent Departmental need that the City process cannot provide immediately. Their Board of Directors consists of 11

BOARD OF FIRE COMMISSIONERS
MINUTES
TUESDAY, SEPTEMBER 21, 2010

people and will be voting on more members at the end of the month. Partnerships include corporations, individuals and foundations.

Mr. Corwin, a former Fire Commissioner, stated the Memorandum of Understanding (MOU) (BFC 10-104) needed Commission direction. As it is written now, the MOU requires the Foundation to report back to the City in 3 years. Limiting the MOU to 3 years hinders the Foundation's ability to secure long-term donations that can be promised for 25 or more years. No other foundation is required to hold an MOU with their corresponding Department.

President Hudley-Hayes asked the Commission to table the MOU, as more work needs to be done, and more discussion is possible. Vice President Tolentino asked if the Bylaws and Constitution of the Foundation had been reviewed. President Hudley-Hayes stated no.

Ms. Wagener clarified that the Foundation has a 501(c)(3) and operates under all the rules of the IRS and the State of California. The Foundation has registered with the Police Commission for the right to raise funds within the City of Los Angeles, is totally transparent and will make sure the Commission is kept abreast of their activities. Any gifts made to the Department will come first to the Commission, and on to City Council if necessary.

President Hudley-Hayes added that the City Attorney needs to be engaged. Ms. Jackson stated the MOU is a draft template MOU based on previous MOUs that have been before the Department.

1. [BFC 10-104] – Memorandum of Understanding Between the Los Angeles Fire Department and the Los Angeles Fire Department Foundation, Inc.

Recommendation: That the Board approve and file the Memorandum of Understanding.

ACTION: **TABLED**

- B. Discussion and possible Commission Action regarding City Attorney's Office Opinions:

1. [BFC 10-087] – Response to Allegations Contained in the LAFD Independent Assessor's Report
2. [BFC 10-092] – Disciplinary System and Mandatory Topics of Bargaining
3. [BFC 10-093] – Los Angeles Fire Department's Investigative Subpoena Powers
4. [BFC 10-110] – Los Angeles Fire Department's Independent Assessor's Authority to Access Fire Department Personnel and Disciplinary Records and Information

President Hudley-Hayes stated regarding BFC 10-087, additional work needed to be done. Mr. Pete Echeverria, Chief Assistant City Attorney - Civil Division, stated that the Independent Assessor (Steve Miller) is working on this item. He asked that the four items be put over, as the attorneys who worked on these were not able to attend due to short notice. He agreed to present these items, but stated he is generally accustomed to confidential attorney client communications being discussed in a non-public setting. He suggested in order to maintain the confidentiality to the extent that the Commission agrees it needs to be maintained, that the Commission designate a sub-committee of two

BOARD OF FIRE COMMISSIONERS
MINUTES
TUESDAY, SEPTEMBER 21, 2010

members in compliance with the Brown Act to meet with the City Attorney's Office to discuss these opinions.

President Hudley-Hayes agreed with his proposal, and asked if more than two Commissioners had questions about the opinions, would these Commissioners direct their questions to the Commissioners on the Committee. Mr. Echeverria confirmed the Committee Commissioners can receive the questions, but cannot have a back-and-forth conversation, as this would violate the Brown Act.

President Hudley-Hayes stated she accepted responsibility for the confidential opinions being agendized, as there was no other way for Commissioners to have an open discussion of the opinions. She asked if the questions could be forwarded to Ms. Jackson. Ms. Jackson stated she would take responsibility for specific questions related to the advice of Item 5.B.1-4.

President Hudley-Hayes asked if the Independent Assessor could be part of the sub-committee. Mr. Echeverria stated anyone the sub-committee wants to have participate would be proper. Mr. Echeverria clarified it is a sub-committee, acting as a task force, with a single task, short-term, and no regular meetings. The Committee does not have to meet publicly.

President Hudley-Hayes stated the purpose is to discuss and resolve 5.B.1-4. She asked if it is the desire of the Commission to create an Ad-Hoc single-purpose task force to discuss with the City Attorney's Office Item 5.B.1-4. Discussion was held regarding the Ad-Hoc members, which would include President Hudley-Hayes, Vice President Tolentino, Fire Chief Peaks and the Independent Assessor. President Hudley-Hayes stated the Committee would coordinate a meeting date through Ms. Jackson. Ms. Jackson confirmed she would coordinate the meeting.

ACTION: **MOTION:** (Hudley-Hayes/Bontá): That the Board create an Ad-Hoc, single-purpose task force to discuss with the City Attorney's Office Item 5.B.1-4.
ADOPTED: AYES – 5

ACTION: **MOTION:** (Hudley-Hayes/Bontá): That the Board approve the Ad-Hoc Committee, and consist of Commissioner Tolentino and Commissioner Hudley-Hayes with assistance from the Department staff.
ADOPTED: AYES – 5

6. NEW BUSINESS – CONSENT ITEMS

MOTION (Friedman/Tolentino): That the Board consider Item 6.I. Special.
ADOPTED: AYES – 5

MOTION (Friedman/Furillo): That the Board approve Items 6.A. thru 6.L, with the exception of 6.I.
ADOPTED: AYES – 5

- A. [BFC 10-088] – Approval for the LAFD to Determine Contract Feasibility for Providing On-Call Helicopter Service
Recommendation: That the Board approves the report and recommendations.
ACTION: APPROVED.

BOARD OF FIRE COMMISSIONERS
MINUTES
TUESDAY, SEPTEMBER 21, 2010

- B. [BFC 10-094] – Donation for Urban Search & Rescue Canines from The Wise Family
Recommendation: That the Board approves the report and recommendations.
ACTION: APPROVED.
- C. [BFC 10-095] – In-Kind Donation for Exercise Equipment from the California Community Foundation (CCF)
Recommendation: That the Board approves the report and recommendations.
ACTION: APPROVED.
- D. [BFC 10-096] – In-Kind Donation for Exercise Equipment from the California Community Foundation (CCF)
Recommendation: That the Board approves the report and recommendations.
ACTION: APPROVED.
- E. [BFC 10-097] – In-Kind Donation for Kitchen Appliance/Ice Machine from the California Community Foundation (CCF)
Recommendation: That the Board approves the report and recommendations.
ACTION: APPROVED.
- F. [BFC 10-098] – In-Kind Donation for Eating Implements from the California Community Foundation (CCF)
Recommendation: That the Board approves the report and recommendations.
ACTION: APPROVED.
- G. [BFC 10-099] – In-Kind Donation for Brush Fire Equipment from the California Community Foundation (CCF)
Recommendation: That the Board approves the report and recommendations.
ACTION: APPROVED.
- H. [BFC 10-100] – In-Kind Donation for Kitchen Appliance from the California Community Foundation (CCF)
Recommendation: That the Board approves the report and recommendations.
ACTION: APPROVED.
- I. [BFC 10-101] – In-Kind Donation for Tools and Equipment from the Los Angeles Fire Department Foundation, Inc.
Recommendation: That the Board approves the report and recommendations.
ACTION: CONSIDERED SPECIAL.
- J. [BFC10-102] – In-Kind Donation for Exercise Equipment from the California Community Foundation (CCF)
Recommendation: That the Board approves the report and recommendations.
ACTION: APPROVED.
- K. [BFC 10-105] – Monthly Disciplinary Action Summary – July 2010
Recommendation: Receive and file.
ACTION: APPROVED.

BOARD OF FIRE COMMISSIONERS
MINUTES
TUESDAY, SEPTEMBER 21, 2010

- L. [BFC 10-106] – Corrective Action Summary – Notice of Discharge, Suspension, or Probationary Termination reports filed with the Board of Fire Commissioners – August 7 through September 9, 2010
Recommendation: Receive and file.
ACTION: APPROVED.

7. ITEMS CALLED SPECIAL

[BFC 10-101] – In-Kind Donation for Tools and Equipment from the Los Angeles Fire Department Foundation, Inc.

Recommendation: That the Board approves the report and recommendations.

President Hudley-Hayes asked Ms. Jackson if this item needed to wait until the issue of the MOU is resolved, as of the amount of the donation would require City Council approval. She further asked if the City Council would want to see an MOU. Ms. Jackson stated an MOU is not necessary in order to have a donor donate to the City. Any corporation, company, or non-profit can donate. It is within the purview of this Board and the City Council to accept such donations. No formal relationship with the Department or with the City is required.

Vice President Tolentino asked if accepting the donation would not be construed as a tacit approval of the Foundation. Ms. Jackson stated no, because a lawful non-profit exists as was incorporated in the State of California. The Foundation can operate without any approval from the Department the Commission. The MOU establishes a relationship between the Foundation and the Department for the purposes of use of LAFD trademarks, or deem themselves as an authorized fundraiser for the Department. Any foundation may form and may donate to any public entity. It is up to the public entity to accept or not.

President Hudley-Hayes confirmed that by accepting Item 6.I., there is no tacit understanding that the Department now has a formal relationship with the Foundation. Ms. Jackson stated no.

Vice President Tolentino commented regarding the Request Form included in BFC 10-108. Fire Chief Peaks stated it was a proposed draft form in the event the relationship and the MOU is approved.

President Hudley-Hayes expressed concern regarding accepting this donation. Fire Chief Peaks stated the only reason this donation is being made is because the City has purchased a half million-dollar software program and the Department has no computers to run the software program, and the Foundation has obliged to make that purchase.

Commissioner Bontá expressed serious concern that the Department does not have the resources to support ongoing operations. She recommended that Commission address this concern in the future as it discusses the relationship of the Foundation with the Department. The Foundation should not supplant basic obligations of the Department for equipment and supplies, particularly related to computer aided dispatch analysis and deployment. At some future point, she would like to look at what things should be ongoing operations and funded by the Department's budget, and what the Foundation will do to compliment it.

President Hudley-Hayes again expressed serious concern regarding approving this Item and requested a voice vote. There was discussion of how quickly an MOU can be

BOARD OF FIRE COMMISSIONERS
MINUTES
TUESDAY, SEPTEMBER 21, 2010

finalized, as President Hudley-Hayes wanted to table a vote on this donation until an MOU was ready. Ms. Jackson confirmed the MOU would not be ready by the next Board meeting.

Voice Vote: Bontá – Aye, Furillo - Aye, Friedman - Aye, Hudley-Hayes - No, and Tolentino – Aye.

ACTION: MOTION: (Friedman/Furillo): That the Board approve Item 6.I. as the City Attorney has advised the Board that the *Los Angeles Fire Department Foundation Incorporated* is a proper, private, non-profit charity and the City Attorney further advised that by approving this item, the Board is in no way making any indication of any relationship between the Department and the Foundation.

ADOPTED: AYES – 4

8. REQUEST FOR FUTURE AGENDA ITEMS

- Verbal report regarding L.A. Times article discussing station closures.
- Report on feasibility of charging response fee for non-transport service by the LAFD.
- *Los Angeles Fire Department Foundation* – supplantation concerns
- Billing mechanism for additional resources utilized, i.e. Electric Daisy Event
- Language capabilities of Department staff interacting with the public

9. CLOSED SESSION – Conference with Legal Counsel pursuant to Government Code Section 54956.9(a) – Pending Litigation and/or Government Code Section 54956.9(c) – Deciding whether to initiate litigation of the following cases:

Bressler, Lee & Mellinger v. City of Los Angeles - Case No. BC 336783
Mapstead v. City of Los Angeles - Case No. VNO 0394939
Achan/Haro v. City of Los Angeles - Case No. CV 04-433
Cleon Lawson v. City of Los Angeles - Case No. BC 404521
Devin Gales v. City of Los Angeles - Case No. BC 417070
Don Jee v. LAFD - Case No. BC 384525
Mattson v. City of Los Angeles - Case No. BC 341677
Miller & Rueda v. City of Los Angeles - Case No. BC 416479
Robinson v. City of Los Angeles - Case No. BC 427150
Tomassi/King v. City of Los Angeles - Case No. CV 08-0185
Burton/Tohill vs. City of Los Angeles – Superior Court Case No. BC 359875;
Appellate Court Case No. B208451

The regular meeting recessed at 10:37 a.m. and Ms. Jackson announced that the Commission would go into closed session with legal counsel pursuant to Government Code Section 54956.9(a) to discuss pending litigation of the matters listed above.

Ms. Jackson called the regular meeting of the Commission to order at 10:56 a.m. She indicated that pursuant to Government Code Section 54956.9(a) the Commission met with legal counsel to discuss pending litigation of the matters listed above and that no action was taken in closed session.

BOARD OF FIRE COMMISSIONERS
MINUTES
TUESDAY, SEPTEMBER 21, 2010

10. ADJOURNMENT

The meeting was adjourned at 10:57 a.m. (Tolentino/Furillo)

ATTEST BY:

GENETHIA HUDLEY-HAYES
President

LETICIA GOMEZ
Commission Executive Assistant

Date: October 19, 2010

Note: Actions of the Board shall become final at the expiration of the next five meeting days of the City Council during which the Council has convened in regular session, unless the Council acts within that time by two-thirds vote to bring the action before it or to waive review of the action.