

**CITY OF LOS ANGELES
BOARD OF FIRE COMMISSIONERS
MINUTES
TUESDAY, JULY 19, 2011**

The Regular Meeting of the Board of Fire Commissioners convened at 9:11 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 Andrew Friedman
Interim Fire Chief Brian L. Cummings
Deputy City Attorney Janet Jackson

Absent: Commissioner Jill Furillo

▪ **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. Interim Fire Chief Brian L. Cummings also honored Firefighter Eric Shepherd who passes away at home last night.

1. **PUBLIC COMMENT**

None.

2. **COMMISSION BUSINESS**

A. Board of Fire Commissioners 2011-2012 Election of Officers

1. Election of Board President

Commissioner Friedman nominated Commissioner Hudley-Hayes for the position of the Board President. Commissioner Bontá seconded the nomination. No other nominations were made.

VOTES TALLIED: Ayes – 4; Nays – 0

Commissioner Hudley-Hayes is the new Board President for 2011-12.

2. Election of Board Vice President

Commissioner Bontá nominated Commissioner Tolentino for the position of the Board Vice President. Commissioner Friedman seconded the nomination. No other nominations were made.

VOTES TALLIED: Ayes – 4; Nays – 0

Commissioner Tolentino is the new Board Vice President for 2011-12.

President Hudley-Hayes thanked her colleagues for the continued honor of being President of the Board of Fire Commissioners and the fluid partnership amongst all of them.

Vice President Tolentino commended President Hudley-Hayes in light of the difficulty of her office.

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Commissioner Friedman commented that this the third or fourth term for President Hudley-Hayes and Vice President Tolentino and commended them on the manner in which they run the Commission.

Commissioner Bontá commented that their mutual respect for the women and men that serve also binds the Commissioners and this Commission is the number one on her volunteer list. She also commended her fellow Board members.

- B. Announcements/Meetings/Events
Considered jointly with Items 3.A. and 3.B.
- C. [BFC 11-095] - Approval of Meeting Minutes for June 21, 2011
MOTION (Bontá/Tolentino): That the Board approve the minutes as submitted.
ADOPTED: AYES – 4 (Absent: Furillo)

3. GENERAL MANAGER'S REPORT

- A. Announcements/Meetings/Events
Items 2.B., 3.A. and 3.B. considered jointly. Interim Fire Chief Cummings invited Mr. Sal Martinez to introduce a new staff member. Mr. Martinez introduced Ms. Carmela Espiritu, new Chief Accountant. Ms. Espiritu introduced herself and noted her previous 24 City experience in Treasurer's Office, Public Works Accounting, Sewer Construction and Maintenance Fund Financial Accounting, the Zoo Department as the Department Chief Accounting employee, and her recent stay at Los Angeles World Airports (LAWA) as the Accounts Payable Manager.

President Hudley-Hayes noted Interim Fire Chief Cummings in his new position. On behalf of the Commission she expressed gratitude for the amount of time Fire Chief Peaks gave them. After 35 years with the Fire Department he retired and the Commission is wishing him well. Interim Fire Chief Cummings has 31 years of service with the Fire Department and she knows that he is well respected by the men and women of the Department. He has served in a variety of roles and has a depth and breath of understanding regarding the Department, its needs and is an excellent selection for Interim Fire Chief. President Hudley-Hayes commended Interim Fire Chief Cummings for 'stepping up to the plate'.

President Hudley-Hayes commented that on July 5th the Personnel Department posted the Fire Chief's Job Description and asked all interested candidates to submit an application by Friday, July 15, 2011. That piece of the process is now over. The next phase will consist of an ad-hoc committee comprised of two Commission members, at least one representative from the Mayor's Office, and probably one community representative. That Committee will conduct the initial interviews of the qualified candidates and the Mayor will review the top ranked candidates.

President Hudley-Hayes added an opportunity for public comment will be put up on the website, that members of the public are invited to give comments and suggestions to the Board of Fire Commissioners. It can be done today, after the meeting, or it can be done via e-mail, or regular mail, and send all of those comments to Ms. Leticia Gómez, Board Secretary, and she will get them to the Committee; so that there can be the broadest possible voice from the City, and internal to the Fire Department for the Commissioners selected to serve on the initial interview panel to consider during the application process.

Commissioner Friedman emphasized that the Mayor's timeline is very short and he believes that sometime in August there should be an announcement based on what they understand.

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President Hudley-Hayes commented that this will be the most effective and efficient manner for this to be done in light of the fact that they know they need to get a Fire Chief in place as quickly as possible, but they also know the constraints with which the City is working in terms of budget deficits and not wanting to spend precious resources to do something they know needs to be done quickly and efficiently. This is not going to be a process where they are trying to keep people out of sending the Commissioners comments, advice, and information. She commended the Mayor for figuring out a way to get this done without spending a lot of resources, but still keeping the process as clear and transparent as it can possibly be and quickly. She noted items which needed to be quickly addressed; budget, redeployment plan, and build-out of PSD.

Interim Fire Chief Cummings referenced the Calendar of Events provided, and highlighted the following events; Swimming Pool & Water Safety, Los Feliz Village Festival, X-Games and X-Fest, and Central Jazz Festival.

B. Calendar of Events
Considered jointly with Item 3.A.

C. Significant Incidents/Activities:

1. [BFC 11-096] – Significant Incident Summary report for the period of June 6 through June 12, 2011.
Recommendation: Receive and file.
ACTION: RECEIVED AND FILED.
2. [BFC 11-098] – Significant Incident Summary report for the period of June 13 through June 19, 2011
Recommendation: Receive and file.
ACTION: RECEIVED AND FILED.
3. [BFC 11-102] – Significant Incident Summary report for the period of June 20 through June 26, 2011.
Recommendation: Receive and file.
ACTION: RECEIVED AND FILED.
4. [BFC 11-103] – Significant Incident Summary report for the period of June 27 through July 3, 2011
Recommendation: Receive and file.
ACTION: RECEIVED AND FILED.

Assistant Chief Timothy Manning reported on significant incidents in Bel Air [BFC 11-098], the Royal visit and the recent 405 Closure. He emphasized the pre-planning process and the unified command structure which involved numerous agencies, i.e. LAPD, Department of Transportation, LAFD and CHP. Unique to this event was the first deployment of a newly formed field incident management teams. A 17 member team, Field Incident Management Team #4, Incident Commander is Assistant Chief Pat Butler. The team handled the full management of the incident relative to LAFD interest. Another part of this deployment was the deployment of EMTs on motorcycles. Assistant Chief Manning stated there was excellent community outreach with this event and he commended Battalion Chief Jack Wise, Operations Section Chief, for attending numerous homeowners' meetings and informing them.

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Battalion Chief Wise explained the entire process and the many 'firsts' involved in regard to this significant project and its success.

Commissioner Bontá commented that in regard to the motorcycles used in this project, they would also be beneficial in areas with a lot of earthquakes and as part of the rescue team. Battalion Chief Wise stated they were used as field observers in this project.

Commissioner Bontá referenced [BFC 11-102] and posed that it seems we have great laws in terms of businesses and what they use in chemicals and being able to do the kind of checks on safety and use of chemicals, employees, etc. She raised the issue of educational institutions, particularly universities, as more and more have laboratories, chemicals and in this instance, radiological materials. She expressed concern due to the numerous budgetary cuts to private and/or public institutions. She commented on an incident in which there was a fatality of a young woman in terms of a chemical and the swiftness of the ability to douse oneself with water or being able to take care of an incident in a fashion may have been of concern to that institution.

Commissioner Bontá asked what is done in outreach to educational institutions. She also posed, when timely, for LAFD and LA County Fire Department to look at educational institutions.

Assistant Chief Mark Stormes commented that State universities fall under the Schools and Institutions section of the Fire Prevention Bureau and they are the responsibility of the State of California. LAFD works closely with the Office of the State Fire Marshall, but it is an ongoing issue and they fall under LAFD's Cooper requirements. With it being a State occupancy, the working relationship is more of a partnership than a mandate.

Commissioner Bontá requested this be a future agenda item to include discussion regarding the relationships and what could be done to reinforce, from LAFD's side, the significance. Although under another jurisdiction, LAFD would be in the position of responding and ensuring the safety of all building occupants, but also to the community as a whole. She is particularly concerned about radiological and potential chemical issues that could lead to a major incident.

President Hudley-Hayes requested that the presentation also capture the Cooper requirements.

President Hudley-Hayes stated that she is always impressed with LAFD; she thinks we are the best in the world at what we do, and noted she recently saw Alicia Mathis on television. As a credit to every time she sees a Fire Department spokesperson, she understood completely what was being explained, i.e. redeployment. Additionally, President Hudley-Hayes' neighbors told her that LAFD came to their home owner's association meeting and explained everything regarding Carmageddon. She commended staff for the excellent presentation.

- D. Verbal report on the disposition of LAFD matters considered by or referred to City Council/Committees during the period of June 21 through July 19, 2011.

Recommendation: That the Board provides instruction to staff and adopts any necessary action relative to the LAFD matters considered by or referred to City Council/Committee during the reporting period.

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Battalion Chief Richard Rideout reported on the following matters:

City Council, July 8 – Motion relative to funding for remote access weather station site in CD 12. The Department reported that the installation of the site in Porter Ranch will enable LAFD to better anticipate the need for additional deployment in CD 12. Additionally, there has been a lot of interest in the site from various Council Districts.

Public Safety Committee, July 11 – Motion relative to the Department's recruitment efforts, including the need for participation in job fairs and to what extent these recruitment activities are being done on a regular basis. The Department has been directed to report back to the Committee on a monthly basis and the Department maintains that recruiting in under represented areas is advantageous.

Public Safety Committee, July 11 – Communication from the Mayor's Office and the Office of the City Administrative Officer. A report relative to the 2010 Urban Area Security Initiative Grant Award from the California Emergency Management Agency was continued to today.

Budget & Finance Committee, July 11 – Motion relative to instructing the LADWP and LAFD to report on the status of potential cost recovery for fire service, item continued.

Public Safety Committee, July 18 - 2010 Brush Clearance Assessment Hearings Report and Proposed Appeal Decisions and Recommendations, the Department found that there would be additional revenue due to this assessment.

Commissioner Friedman asked if there are current recruitment efforts in underprivileged areas. Battalion Chief Rideout stated yes, in underrepresented areas. The request is to know specifically what the Department is doing to recruit in those areas. Commissioner Friedman stated his understanding was that there is no hiring.

Interim Fire Chief Cummings clarified that the reason recruitment efforts continue is that best practices for recruiting members of some of the underrepresented groups, i.e. women and minorities, is that they identify those candidates early, get them in preparation processes to be ready to take the testing and more successful when starting the training academy. The testing process for an academy class is 12-14 months and they are looking to hire in a couple of fiscal years. Therefore, the testing process will begin 12 months from now, if everything stays static. They need to identify those best candidates in those underrepresented groups now and begin to prepare them in order to be successful.

President Hudley-Hayes inquired regarding the cost of this preparation. Interim Fire Chief Cummings stated that the current cost is minimal. The Public Safety Committee's stance is that LAFD needs to be spending more because LAFD should be aggressively going after those underrepresented groups. Vice President Tolentino requested this item be part of the Commission's agenda, to inform them what is going on with the recruitment efforts.

Commissioner Bontá suggested another agenda item in the future to look at what the Department projects, i.e. when the first training class occurs. She requested a presentation that would look at the projections of what those first two classes would look like.

President Hudley-Hayes commented it would be helpful to know what staff was projecting and that information be integrated in with what is now being done.

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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)

Battalion Chief Rideout reported that Captain James Hayden has been assigned this project and will be compiling the information with the Battalion Chiefs assigned the project in each of the different areas, and will be completing the response for the first six action items. Chief Special Investigator Paul Hayashida will be completing the seventh item, the Policy and Procedure Manual.

- B. Verbal report from Department on status of the new Deployment Model, including discussion of policy changes regarding the hard closures and the temporary resource augmentation based on Department needs.

Captain Mark Woolf, Planning Section, stated that regarding the overall status, the Deployment plan went into full effect on July 5th and today is day 15. Staff has been constantly monitoring and accumulating data. The process is field resources gather issue information; filter it to the Battalion Chief who filters it to the Division Chief and to the Bureau Commanders thereafter. No significant incidents have occurred. Data is being compiled and staff will have detailed accounts of time frames, per area, per district and they can drill down even to the individual fire station first-ins soon, and those will be available upon request.

Captain Woolf stated regarding the policy changes, former Fire Chief Peaks assembled the Implementation Group which worked diligently to make a seamless change from the expanded MCP into the Deployment plan. Items continue to be worked out.

Captain Woolf stated regarding the temporary resource augmentation, as previously reported the Fire Chief and the Chief Officers meet and advise when augmentation is necessary, i.e. 4th of July, 405 Closure. The Fire Chief has the ability to augment when needed.

Commissioner Bontá asked if data points in the future would include morale and building it into a process that would look at other indicators, complaints, other kinds of actions in the Department that would give you a sense of perhaps the climate. Captain Woolf responded that his expertise would be on the data, but the field people filter those comments which are handled at various levels with more immediacy than the data.

President Hudley-Hayes asked how that information gets into the data collection.

Chief Deputy Donald Frazeur clarified that part of the implementation plan was bringing information back from the Department Commanders and those reports are due back September 1st. Once received, the information will be reviewed and categorized, but if an item is immediate, staff would act accordingly. President Hudley-Hayes requested that a report be provided to the Commission at the level of response times, the difference in response times from Battalion to Battalion when the information is available. This information would help Commissioners understand how the plan is working throughout the City and how staff is compensating if there are differences, maybe there will not be. She requested information area

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by area, not station by station, to understand what is going on for the whole City. Captain Woolf stated he has been directed by the Fire Chief to have detailed data available to him and his staff and generalities on an on-going continuing agenda item for the Commission.

C. Verbal report on Human Resources Value Contract (C-116124).

Dr. Pat Lynch stated her last presentation to the Commission was in January when the implementation of the succession process was to begin. She provided an update on what is currently being done and what is coming up next. Three parts of the project completed to date; first they implemented the Service Optimization Project in March. The two purposes were to accumulate data that would allow the Department to demonstrate, in an objective way, why it needs the resources it is requesting. The idea is to be able to educate the decision makers in City Hall and also within the Department. The second reason was to gather data that would enable Department members to do a good job in their current jobs as well as to prepare for future jobs. As part of this project, position descriptions were also updated for over 130 special duty positions. She commended Ms. Norma Gutierrez in Personnel and her staff and the Captains details to this project.

Dr. Lynch stated that a summer intern was also hired, a Masters student in the MPA program at USC. She will assist with one of the projects which will be beginning. Now, two pilot programs have been started, one is a job shadow program which has a two-fold purpose. The idea is to let people know what is going on, they are doing a pilot program in the Planning Section. There are four Captains detailed for two weeks and they are learning about the Department, about City Government, what the Planning Section does and they will be able to take that information back with them. There is a professional development aspect of it and also a selection aspect because there will be one or more Captains leaving Planning in the near future and these Captains will be among the pool considered. There will also be 3-4 Captains coming in the next week for another two week rotation. There will probably be 8 Captains going through this two week detail in which they are shadowing the Planning Captains.

Dr. Lynch added that they are also doing a pilot program for the Knowledge Transfer Process. This process is intended to get the information out of people's heads and in some form of documentation. As known, there are a large number of members who are retiring and that institutional knowledge will walk out with them unless there is some systematic effort to document that, retain it and also to pass it on. She added that a large percentage of that institutional knowledge relies on experience. Therefore, the job shadow program is one way of sharing information from one person to another. Other programs will be implemented as time goes on, i.e. mentoring program, special projects; special duty positions are all ways to help transfer that knowledge. The other objective of the knowledge transfer program is to begin to identify how people learn things. More often than not, when people go into a special duty position there is seldom a transition. Interviews have begun for this program.

Dr. Lynch confirmed that the Knowledge Transfer Process is first up. They are also developing a communication strategy for the Department. They will look at what is available, how things are done, how things can be done most consistently, most systematically to best serve the Department and public safety. They will also review Special Duty positions as a lot require specialized skills or knowledge. Other aspects of the plan include developing competency models and a talent bank.

President Hudley-Hayes asked if Dr. Lynch is considering looking into a coaching model that is more specific and is training people to be executive coaches. Dr. Lynch responded she is utilizing a mentoring relationship that can be both formal and informal. President Hudley-Hayes

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requested that at a later date, the Commission be updated regarding the formal mentoring program. Dr. Lynch provided examples of templates being created.

Commissioner Bontá inquired regarding the number of special duty people involved. Dr. Lynch stated approximately 135 people were interviewed, but approximately 150+ positions are designated special duty positions.

President Hudley-Hayes stated the Department is incredibly lucky to have her and her staff and her company doing this work. It appears this is the first time that she has seen the Fire Department make a conscious effort to professionalize and quantify the data in order to eventually answer all of the questions critics have about why we do what we do, how we do it, and how that accrues to the whole picture of public safety. She thanked Chief Barry, Chief Peaks, Chief Cummings and Dr. Lynch for the incredibly professional, stellar job she is doing for the Department which will be very effective for the City due to the lean times.

Dr. Lynch commended Chief Peaks as a lot of what he did is hidden from the public and it takes a big person to work on infrastructure and things not readily apparent and move the Department forward.

5. NEW BUSINESS

- A. [BFC 11-104] – Policy Statement Regarding Access to Records, Files and Information by the Office of the Independent Assessor
Recommendation: Receive and file the policy statement and consider setting future public discussion of the item.

Mr. Stephen Miller, Independent Assessor, stated he placed this item on the agenda to inform the Commission, Fire Department and the public that his office has adopted a right to access information policy. This policy follows enactment of Charter section 523 that the voters approved in March 2009. It follows the Commission's approval of a document titled *Policies and Authority of the Independent Assessor* on December 15, 2009 and it also follows the former Fire Chief's memorandum dated July 14, 2010 titled *Access to Records, Files and Information by the Independent Assessor*. This is the first formal policy statement from his Office and he is simply announcing that he has enacted/adopted this policy. It is presented to the Commission as he presents all his materials in public and in a transparent fashion.

President Hudley-Hayes stated that by way of context and background, because the Commission allowed, Commissioner Tolentino and herself, to form a sub-committee in order to try to get some of this protracted conversation taken care of with the City Attorney's Office. She reported that much to her dismay they did not make any progress. They did not get any answers to the questions they asked. The policy statement is one that she recommends the Commission move forward with because they are in a protracted conversation with the City Attorney's Office where their questions are not getting answered. It is clear to her that when the initiative was put on the ballot and it was overwhelmingly approved by the voters, without the Independent Assessor's ability to access records, files and information, she does not know how he is going to be able to track, independent of the command structure, how he will be able to do the work the Commission asks of him. He is asked to do reports, audits, follow up work to confirm the Fire Department is operating in a way they want it to operate.

President Hudley-Hayes understands that they are not asking the Independent Assessor to act in a capacity of legal counsel to the Commission; they have legal counsel in the City Attorney's Office. He needs to have this access and she does not see anything in the Charter or language

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that precludes the Independent Assessor from being able to get the information he needs to do the job he is doing.

Vice President Tolentino concurred with Commissioner Hudley-Hayes; they have always been trying to get input from the City Attorney's Office. They have provided several points and authorities and different approaches and they did not get very responsive comments back and also a lot of dilatory time passing through. For the Office to function he has to have the same access as Commissioners and he is the eyes and ears of the Commission. The position was created in response to a very difficult audit the Department went through and it took a year and a half of processing. Vice President Tolentino recommended going forward with the policy statement.

Deputy City Attorney Janet Jackson stated that the City Attorney's Office, per the Charter, is the legal authority for both the Commission and the Department. Although two very capable lawyers are on the Commission, it is not their role to advise the Commission. There is also a very capable Independent Assessor who happens to be a lawyer; it is not his role to advise the Commission. If the Commission takes this action, by accepting this policy statement, they are going against the expressed legal advice given by the City Attorney's Office. A written copy was given to the Commission, Zina Houston's opinion on the authority of the Independent Assessor and she urged the Commission not to adopt the policy statement. The policy statement goes against the expressed advice that has been given to the Commission and also to the Fire Chief with respect to access to personnel records.

Vice President Tolentino stated that when the opinion was received they requested that there be some clarification and requested a whole set of other information and a written reply was never received. The process is that they have questions and yet the questions are not answered, the Commission is stymied. The Commissioners are not wearing their attorney hats. Unless they get something more responsive it is tough for them to make decision and then they have an Independent Assessor who helps them assess what the situation is and look at the points and authorities and then there are continuing questions that are never answered.

Deputy City Attorney Jackson responded that by looking at the points and authorities, he is rendering a legal opinion. The City Attorney's Office has given the Commission clear, expressed opinion, although they have not have responded to your questions, or given written responses in the way in which the Commission so desires, they have given clear, direct legal advice.

President Hudley-Hayes stated the Commission is the client and frankly they are not getting the answers they are asking for from the City Attorney's Office. She understands the City Attorney is the Commission's general counsel, but this has been going on since 2009, and they still have not gotten the answers they are requesting. She does not believe that Commission Tolentino or Commissioner Friedman or Mr. Miller is trying to supplant the City Attorney's Office, but she believes that this policy statement is something they need. If that means that will get everybody to the table to have a conversation and get this resolved/answered she is fine with moving ahead. Three Commissioners have spent a lot of time on this issue and are no closer to an answer than in 2009.

Commissioner Friedman stated that the way the agenda is actually worded; he does not believe they are going against the City Attorney. It says recommendation; it does not say they are adopting it. It says they are receiving and filing the policy statement and consider setting future public discussion of the item. He would perhaps add in addition there that now that they have received and filed the policy statement with points and authorities perhaps they would like to

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have for their next meeting a comment from the City Attorney based on that they are the client, our attorney has advised us specifically, we have received from our employee certain points and authorities. We would like to receive this, file it and have the City Attorney tell us why it is in the City Attorney's opinion these points and authorities are not correct. Vice President Tolentino interjected a written one.

Deputy City Attorney Jackson responded that with all due respect, Carmen Trutanich, the City Attorney, decides how he wants to run the office of the City Attorney and how he wants to assign the resources, she does not mean to speak for him and any message that the Commission would like her to carry back she is more than happy to carry back. But she does want the Commission to be clear that this policy statement goes against the expressed advice that has previously been given both to the Commission and the Fire Chief.

Vice President Tolentino stated that the reason he asks for a written response is that they did have the meeting and they had oral responses, and he thought that they understood why the Commission was so concerned and why the Commission had problems with that opinion, and that they would get back to the Commission, they never got back. Now they are at a point where they are going to receive and file a policy and if the City Attorney's Office has problems with it, that he will provide a written response to it in order to at least continue a dialogue. The dialogue they had before, it looked like the City Attorney's Office began to understand what the Commission was concerned about, and they went through this whole process, a Charter change, and specific language being put into place. He went to the first meeting with Chief Peaks, it did not go very far, they set up a second meeting and he thought they seemed to understand and would get back to the Commission with a written response, which never came through. The same issues were raised and they were never answered. The Commission does not want to push the City Attorney in any kind of position, but they need answers to do their jobs in terms of oversight as a Commission.

Deputy City Attorney Jackson stated that what they have asked is the City Attorney to explain and justify the legal advice that has previously been given. She will point out that the Commission has been advised of the opinion of the City Attorney with respect to whether or not the City Attorney's Office is going to go/take further steps to respond specifically to the litany of questions and analysis that have been presented is something that the City Attorney will make that determination and it is not something that she is privy to make. She wanted to be clear that by adopting this policy statement which goes against the expressed advice that has been given is not an automatic push to get a meeting to respond to your questions.

President Hudley-Hayes stated that because the recommendation is that the Commission receive and file this and setting future public discussion of the item. As the client, the City Attorney is the Commission' general counsel, she believes the Commission has the right to ask for the legal underpinning in order for them to understand it when an opinion is rendered. Her understanding has always been that is incumbent upon the Commission to understand when they get an opinion, what the basis is in law or the legal precedence. She and Vice President Tolentino believe that that has not been done. They are now here two years later and they still do not have that, she is prepared to say to her colleagues that she is in favor of recommendation.

Commissioner Bontá stated she is struggling with this, she believes the Commission feels very strongly that this is not disrespecting the City Attorney, which is not the intent. Vice President Tolentino agreed. Commissioner Bontá stated they also have responsibilities as Commissioners. She came in at a time when they had an audit, had the public outraged, investigations and they have worked through the Commission to have the Independent

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Assessor. That went through a process that had voters look and determine should they have an employee of the Commission that would take on this responsibility and that is a weighty matter. Again, they are volunteers and there is only so much time as volunteers. Therefore, she is relying on the Independent Assessor. She wants him to be truthful and with no restraints to be able to look at all the materials, say if policies need to be changed, because this group will advise the City Council, the Mayor in terms of policies that need to be robust to have the best department possible. Her struggle is why can't they work this out in terms of what kind of information can the Independent Assessor have that allows him to do his duty and allows her as a Commissioner to feel like there are not those restraints. She would like some dialogue to continue. She is not comfortable about putting aside her duty as a Commissioner in terms of looking at this responsibility and trying to continue to raise the questions about getting the best information possible to make really important decisions. If the answer is no, then her tendency is to say she would go with looking at receiving and filing this statement and considering further dialogue. They want further dialogue to move this a lot further along.

Deputy City Attorney Jackson stated she appreciated Commissioner Bontá's concern and it is not the desire of the City Attorney's Office to stand in the way of any access of information. Their role as the attorneys for the City are to interpret the Charter, to give the legal opinion as to the authority that is vested with Commissions, Departments, and individuals under the Charter. The City Attorney's Office has done, they may not have answered the supplemental questions that the Independent Assessor and the Commission have, but they have rendered that advice and they are the attorneys for the City. If this Commission decided that they do not like the advice because it hampers their ability to get the job done, understand that it is the role of the City Attorney's Office to interpret what the Charter says. When this Commission went through the very long process, she was here as they went through the audits, as they built a formula for change and sent it forward to Council, Council made changes. When the position of Independent Assessor went forward, it went forward watered down substantially by the decision of the changes made by Council. She believed the motion was made by Councilman Weiss and on the floor before the Charter change was adopted, recommended the changes which removed a lot of the authority that the Commission now seeks to give to the Independent Assessor.

Vice President Tolentino stated that this is the dialogue they have been seeking and want the dialogue in a written form because it seems to get forgotten periodically. He has the same struggles as Commissioner Bontá, and they are not trying to be disrespectful of the City Attorney's Office. Deputy City Attorney Jackson stated they take no disrespect. Vice President Tolentino continued it is the dialogue that the Commission is missing. He would be happy to look, review, and weigh out what she just said, but that is what Commissioners Hudley-Hayes, Friedman and he might know, but they have other Commissioners and act as a body. Because of the Brown Act other Commissioners are not privy to a lot of the discussions.

Vice President Tolentino added that these are just summaries from the Independent Assessor, but to look at the actual letters and correspondence, there needs to be a more unified response. Not bits and pieces all over the place, which they do have a concise whatever objection or agreement the City Attorney has with this particular document. He realizes they cannot push the City Attorney in a certain way, but it seems like this is the Commission's way of really getting a written response. If it does not, he is not sure what they will do afterward.

Commissioner Friedman suggested another way of getting what they all want is to continue this matter for the next meeting and at the same time requesting the City Attorney to, as a motion to give the Commission a written response of why they should not receive and file/adopt this. He would vote with the majority if they want to go with this right now.

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Commissioner Bontá commented regarding the action of Councilmember Weiss, what is the expectation of the City Council. What was the exact role they envisioned for the Independent Assessor? She agreed with Commissioner Friedman's suggestion of allowing for more time, but she would also want more specifics, an explanation of what will allow Commissioners to do their duty, due diligence and allow their employee to do sufficient diligence that the public's expectations would be met in terms of why this role came into play. That is the part that is the disconnect for her, she wants some clarity on how is she assured that there is no blockage, and if there is what action does the Commission need to take. Does it need to go back to the City Council? Does there need to be changes in there to how we formulate the role of the Independent Assessor and the Commission would respect the will of those bodies if there are restrictions, but she needs to be up to date before action is taken.

President Hudley-Hayes stated her position is unchanged and that the recommendation should be followed, and then consider to continue the dialogue. She was in those meetings as well, through the entire process thinking about an Independent Assessor. She clearly remembers it was Weiss, Zine, and Parks who pressured her, and the Fire Chief, for them to make sure that they had someone who was an attorney who had legal background in this. She does not recall they were watering down anything, but she may not remember everything. She suggests, with all due respect to the City Attorney, the Commission follow this recommendation; they leave the door open for more conversation. They are not adopting anything today, but leave the door open for more information and more of what Vice President Tolentino is referring to, and they get something in writing. They are not asking questions that they should not have a response to, as the client. She believes there are 8-9 questions that they have asked and she does not understand why they cannot have answers to them.

Deputy City Attorney Jackson reiterated that the City Attorney, Carmen Trutanich, decides how he is going to allocate the very, very limited resources of his offices and that is not a question that she can answer, but she will bring it back to him. She also wants the Commission to understand that by allowing this policy statement to exist, this policy statement indicates that the Independent Assessor is going to have unfettered access to all personnel records and that the Department is to cooperate. They are now putting the Interim Fire Chief in a position where he has to make a choice between the Commission or following the legal advice of the City Attorney's Office. There are actions involved by allowing the policy statement to exist whether they receive and file it or adopt it. Vice President Tolentino stated the Commission is the head of the Department; the Fire Chief does not have a choice.

President Hudley-Hayes stated in regard to the Charter that is true, he would not be conflicted. Deputy City Attorney Jackson stated that as the head of the Department the Commission could not direct an employee to engage in illegal activity, he still has an ethical obligation to respond.

Vice President Tolentino the no responses is what is so frustrating, he understands the need for dialogue, but maybe they are on the third year of this, that is what is so difficult. Almost everything the Independent Assessor has provided to the Commission, or reports, they are all run by the City Attorneys for input, for clarification and for correction. Deputy City Attorney Jackson stated no, they are not, that is not a correct statement. Vice President Tolentino continued, his report that he sent to the Commission? Deputy City Attorney Jackson stated that she is the Commission's general counsel, she was not cc'd on the initial correspondence. The way in which information was delivered from the Independent Assessor sometimes there is direct contact through the front office, sometimes things are directed to the head of the civil division. Vice President Tolentino responded that is an impediment, their direction has always been that she is copied. He does not believe it has been a deliberate attempt to leave her out of the loop.

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President Hudley-Hayes suggested the Commission follow the recommendation, not take any action on implementing this policy and she requested that Deputy City Attorney Jackson inform City Attorney Trutanich the Commission wants some of those precious resources and those questions answered. They are happy to do this in a public setting, or have it come in writing to the Commission. They tried this in closed session, they could not talk about it in closed session, they had to talk about it in open session, they talked about it in open session, they have had 4-5 meetings and she is prepared to suggest to her colleagues that they accept the recommendation, keep the dialogue going and she is still asking that those 7-8 questions that were asked in 2009 that they get an answer to, that is her recommendation.

Commissioner Bontá asked if it made for more clarity if it were a receive and file, instead of the policy statement, the report of the policy statement – so that is more clear that they are not asking for implementation at this point. Deputy City Attorney Jackson responded but if the policy statement exists, what is the purpose of the policy statement and what authority does the Independent Assessor have to issue policy statement and what is the effect of the policy statement. President Hudley-Hayes stated if they do it then they can get some answers. Commissioner Bontá stated she is asking for a step before that, for consideration, which is that they have an employee presenting a report to them, they are accepting the report and want to have further dialogue with the City Attorney's Office and saying to the City Attorney at some point this Commission, and maybe that's the next meeting which is what Commissioner Friedman's suggestion, that the Commission would actually take action.

President Hudley-Hayes stated she is committed, she does not want to splice it because the Commission has been two years in this same spot trying to accommodate and at this point they need to make a statement. They need those questions answered. She does not want Mr. Miller, the Fire Chief or the Commission to do something illegal, but there are 8 questions on the table. The Commission indicated that it gave authority to a sub-commission (Hudley-Hayes and Tolentino) and how much time they have been spending on one issue.

Commissioner Bontá responded she respects that, the difficulty is that not all Commissioners know the background. Deputy City Attorney stated all the Commissioners received a copy of the legal opinion. Commissioner Bontá agreed, but they did not participate in those numerous hours of dialogue or trying to get to the heart of these issues. She has not sat in those issues, she is going to respect that they have put in a lot of time and energy and would not come with this recommendation without feeling like there is no other place to go.

Vice President Tolentino stated the sub-committee was created because the City Attorney was at a meeting, which is the time they received the opinion, it was his recommendation that the Commission form a sub-committee and have a dialogue – which they have tried. Deputy City Attorney Jackson clarified it was Mr. Pete Echeverria, the head of the civil division. President Hudley-Hayes reiterated Mr. Echeverria's recommendations which they have done for two years and at this point she wants to move forward with the language just the way it is.

Vice President Tolentino moved that the Commission adopt the recommendation of the Independent Assessor to receive and file the policy statement. No second to the motion was obtained.

Commissioner Friedman stated he would like to make a counter motion, that the Commission continue this matter to their next meeting and at that time the recommendation should come back to the Commission and at the same time in order for the Commission to intelligently vote on this, they need to have a written response to their questions. Basically, he is asking for one more chance before they vote on it to allow the City Attorney to give them a written response.

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President Hudley-Hayes added that includes those 8 questions that they have been asking for for two years – giving them a month? Commissioner Bontá stated one month only and she seconded the amended motion. President Hudley-Hayes stated she wanted to be adamant about a month; they need answers to the questions, in writing, to understand what that legal opinion rests on because they have a lot of data that says there is precedence for this. She will go along with what the Commissioners are asking because they do not have a second to Vice President Tolentino's motion, but a month. When it comes back in a month and they do not have some kind of answer for these 8 questions, she is saying to the Commission they need to move forward with this.

Commissioner Friedman stated that if they do not, he will second it. Commissioner Bontá asked for clarification with Ms. Leticia Gómez, Commission Executive Assistant, that a meeting is being scheduled for August 16 and that all parties will still be able to come to continue this dialogue. President Hudley-Hayes stated she would be on vacation on the 16th. Vice President Tolentino suggested the following month, September. Brief discussion was held regarding the item being continued to the September 20th Board meeting. President Hudley-Hayes stated the City Attorney's Office was now being given 60 days to get this done. Commissioner Friedman stated that would be his motion and Commissioner Bontá seconded the motion as amended.

Commissioner Bontá recommended that this item could also be scheduled as a special meeting if need be, she to does not want to see this delayed any further.

MOTION (Friedman/Bontá): That the Board continue this matter to September 20th meeting, and that the recommendation come back to the Commission, and that the Commission have a written response from the City Attorney to their questions.

ADOPTED: AYES – 4 (Absent: Furillo)

6. NEW BUSINESS – CONSENT ITEMS

- A. [BFC 11-081] – 2010 FEMA Urban Search and Rescue Task Force Readiness Cooperative Agreement Grant Additional Monies Awarded Council File 10-2283
Recommendation: That the Board approve the report and recommendations.
ACTION: APPROVED.
- B. [BFC 11-085] – Proposed Decisions and Recommendations for the 2010 Noncompliance Fee Appeals
Recommendation: That the Board approve the report and recommendations.
ACTION: APPROVED.
- C. [BFC 11-097] – Annual Report – LAFD CAL JAC – Account 40K Fiscal Year 2009-2010
Recommendation: That the Board approves the report and recommendations.
ACTION: APPROVED.
- D. [BFC 11-099] – Monthly Disciplinary Action Summary – April 2011
Recommendation: Receive and file.
ACTION: RECEIVED AND FILED.
- E. [BFC 11-100] – Monthly Disciplinary Action Summary – May 2011
Recommendation: Receive and file.
ACTION: RECEIVED AND FILED.

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- F. [BFC 11-101] – Approval of Weed and Refuse Abatement Contractors from the Request for Qualifications No. LAFD 2011-038-001. Request for approval of seventeen Weed and Refuse Abatement Agreements with the following contractors:
- Avalon Landscape, Inc.
 - Brian Walsh Brush Clearance
 - C3
 - Equery, Inc. DBA Econo Tree Care
 - Green Leaf GHT, Inc.
 - International Environmental Corporation
 - Mariposa Landscapes Inc.
 - Oakridge Landscape, Inc.
 - Pan American Brush Clearance, Inc.
 - Pepo Weed Abatement, Inc.
 - Ray Byers & Company
 - Silent Fire, Inc.
 - SR Landscape
 - Thrifty Tree Service, Inc.
 - Underwood Landscape
 - Van Gogh Landscaping LLC.
 - Waste Unlimited, Inc.

Recommendation: That the Board approve the report and recommendations.
ACTION: APPROVED.

- G. [BFC 11-106] – 2010 FEMA Urban Search and Rescue Task Force Readiness Cooperative Agreement Grant FEMA MOA
Recommendation: That the Board approve the report and recommendations.
ACTION: APPROVED.

- H. [BFC 11-107] – Corrective Action Summary – Notice of Discharge, Suspension, or Probationary Termination reports filed with the Board of Fire Commissioners – June 3 through July 7, 2011.
Recommendation: Receive and file.
ACTION: RECEIVED AND FILED.

MOTION (Bontá/Tolentino): That the Board approve 6.A., B., C., F. and G. recommendations and receive and file 6.D, E. and H.
ADOPTED: AYES – 4 (Absent: Furillo)

7. ITEMS CALLED SPECIAL

None.

8. ITEMS REQUIRING PUBLIC HEARING

- A. [BFC 11-105] – Proposal to Charge Fees for the Plan Review, Inspection and Testing of Fire Hydrants, Fire Access, and Fire-Flow Requirements report – proposed fees*:
1. Fire environmental impact report research and review fee \$156/1 hour.
 2. Fire hydrant plan review fee \$156/1 hour.
 3. Fire hydrant field inspection and/or test fee \$312/2 hours.
 4. Fire Department access plan review fee \$156/1 hour.
 5. Fire Department access field inspection fee \$312/2hours.
 6. Additional plan review, inspection or re-inspection fee \$156/hour.
- *Note: Please refer to report for complete details.

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Recommendation: That the Board directs the Commission Executive Assistant to schedule a Board of Fire Commissioners public hearing and publish the required notice relative to the proposed fee enactment.

MOTION (Tolentino/Friedman): That the Board approve the report and recommendations.

ADOPTED: AYES – 4 (Absent: Furillo)

9. REQUEST FOR FUTURE AGENDA ITEMS

- Requested formal letter to attend 11th International Conference on anti-terrorism held in Israel as a Board of Fire Commissioners Representative. Sheriff Lee Baca has been asked to be the keynote speaker and has asked Commissioner Friedman to go along as his Special Advisor. There would be no cost to the City for this item. (Friedman)
- Presentation on outreach to educational institutions in regard to hazardous materials, i.e. radiological and chemical. Including information on Cooper requirements. – See Item 3.C. (Bontá/Hudley-Hayes)
- Presentation on recruitment efforts for underrepresented classes, i.e. women. – See Item 3.D. (Tolentino/Bontá)
- Report back regarding response times, area by area. – See Item 4.B. (Hudley-Hayes)
- Mentoring relationship, report back regarding formal mentoring program. - See Item 4.C. (Hudley-Hayes)
- Continued to September 20th. – See Item 5.A. (Hudley-Hayes, Tolentino, Friedman, Bontá)

Vice President Tolentino departed meeting at 11:05 a.m.

10. IDENTIFICATION OF THE BOARD'S MEET AND CONFER NEGOTIATORS REGARDING DISCIPLINARY GUIDELINES

Interim Fire Chief Cummings confirmed negotiator Assistant Chief Daren Palacios was not present, but he did have the letter from the ERO for the Board.

Deputy City Attorney Jackson confirmed that no one else had been designated as a negotiator. The item could be continued to the next Board meeting and a confidential communication could go to the Board.

Commissioner Friedman requested Ms. Gómez to attempt to make the next meeting the first week of August, if a quorum is possible.

Brief discussion was held regarding the next possible meeting date, August 2nd.

11. CLOSED SESSION

- A. Conference with negotiators pursuant to Government Code Section 54957.6(a) – To permit the Board to review its negotiating position and instruct its negotiators concerning the conduct of negotiations regarding disciplinary guidelines.

Item continued.

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12. ADJOURNMENT

The meeting was adjourned at 11:07 a.m. (Friedman/Bontá).

ATTEST BY:

GENETHIA HUDLEY-HAYES
President

LETICIA GOMEZ
Commission Executive Assistant

Date: August 2, 2011

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.