

**CITY OF LOS ANGELES  
BOARD OF FIRE COMMISSIONERS  
MINUTES  
TUESDAY, MAY 15, 2012**

The Regular Meeting of the Board of Fire Commissioners convened at 9:05 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 Andrew Friedman  
Commissioner Jill Furillo  
Commissioner Alan J. Skobin  
Fire Chief Brian L. Cummings  
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, the Fire Service, Law Enforcement, EMS and the Military who devote their lives to the protection of the community and of our Country.

**I. ITEMS NOTICED FOR PUBLIC HEARING**

**1. PUBLIC COMMENT**

None.

**2. [BFC 12-055] – Los Angeles Fire Code Public Hearing**

Recommendation: That the Board approve the Los Angeles Fire Code 2012.

Deputy Chief Mark Stormes stated this is the opportunity for public comment relative to the proposed new Los Angeles City Fire Code. We are two weeks into the Internet-based stakeholder's exchange of information and are scheduled to go through June 11. That will be the end of our public stakeholders outreach and at that point we will compile that information we get through the stakeholders input and come back to the Board at that time.

President Hudley-Hayes asked for clarification. Is the Board being asked to approve the 2012 Fire Code? Or are you just telling us now and you will bring it back with all of the attachments and input? Deputy Chief Stormes stated yes, this is the official public hearing relative to the stakeholders input. President Hudley-Hayes asked if it is mislabeled on our [agenda]. Deputy Chief Stormes stated yes.

President Hudley-Hayes commented today there are five Commissioners, referring to recently confirmed Commissioner Alan J. Skobin. She noted Commissioner Skobin had been on the Los Angeles Police Commission and welcomed him to the Board of Fire Commission. She first met Commissioner Skobin during the selection process for a new Fire Chief. She understands that Commissioner Skobin worked with Commissioner Tolentino on a Committee some time back. Commissioner Tolentino commented about 20 years ago in the implementation of the Christopher Commission reforms.

President Hudley-Hayes commented that in meeting with Commissioner Skobin, it was clear that he really wants to be on the Fire Commission. He has great focus and a great deal of passion in addition to a lot of knowledge around the whole arena of public safety.

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Commissioner Skobin confirmed he was delighted to be here and it is something he very much wanted to do. He is appreciative of the wonderful welcome he has received and he promised that he will approach this with passion. As a reserve police officer he has had the pleasure of knowing firefighters and working in the field with them. He considers it an honor to be here and will approach this as a job. He thanked everyone for the welcome received thus far.

Commissioner Friedman commented a couple of years ago Commissioner Skobin was honored by a society that he is active in called the Shomrim Society. Commissioner Skobin was honored along with the Assistant Sheriff Tanaka and that event was probably the most successful in the history of that society and anything that Commissioner Skobin touches always becomes successful. He wished Commissioner Skobin continued success, especially with the Fire Department, so we in the Fire Department should become more successful.

**II. REGULAR AGENDA ITEMS**

**1. PUBLIC COMMENT**

None.

**2. COMMISSION BUSINESS**

A. Announcements/Meetings/Events  
Considered jointly with Items 3.A. and 3.B.

B. BFC 12-066] – Approval of Meeting Minutes for April 17, 2012.  
**MOTION** (Tolentino/Friedman): That the Board approve the minutes as submitted.  
**ADOPTED:** AYES – 5

**3. GENERAL MANAGER'S REPORT**

A. Announcements/Meetings/Events

Items 2.A., 3.A. and 3.B. considered jointly. Fire Chief Cummings referenced the Calendar of Events provided, and highlighted the following events: May is Brush Clearance Campaign Month, May 16 – Civilian Employee Recognition Luncheon, May 20 – Amgen Tour of California, May 28 – Memorial Day Holiday, June is Swimming Pool & Water Safety Awareness Month, June 2 – Grand Opening of Fire Station 82, June 7 – Hope for Firefighters, June 9 – 3<sup>rd</sup> Annual LAPD & LAFD Safe Summer Tip-Off Youth Baseball Event.

Fire Chief Cummings referenced the events he attended since the last Commission meeting: Fire Service Day weekend, all 106 fire stations had their doors open. Commissioner Hudley-Hayes stated she visited four fire stations and it is a great event for everyone to attend.

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

**4. OLD BUSINESS – Taken out of turn.**

E. Verbal report from the Mayor's Office regarding the status of the Fire Alert System.

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Ms. Eileen Decker, Deputy Mayor, Homeland Security and Public Safety, stated she has been asked to present a quick overview to the Commission with respect to the status of the Fire Alerting System. The Mayor asked her to develop a plan to move forward with implementing a new fire alert system in the City. As a result we put together a working group of the relevant departments and obviously it includes the Los Angeles Fire Department, ITA, City Attorney's Office, CAO's Office, Mayor's Office and specifically the Homeland Security and Public Safety Team and the Budget Team. She acknowledged all of the people who have been working on this and their tremendous efforts and hard work. As a result of their efforts we are working on a technical assessment of the fire alert system and the City has contracted with Mike Baker who is in attendance today. He is an experienced software engineer who has the expertise to assess the stability of the system and to assist in determining the technical infrastructure needs for the new fire alert system. He is assisting in drafting the RFP which has been substantially completed. She would expect that by the first Commission meeting in June [June 5] we should have the completed RFP ready to present for Commission review and approval. Then she would expect it would be issued shortly after that. The funding mechanism has been identified. Money has been set aside in the City's MICLA funding. There will be a formal procurement that will be issued. With respect to the timeline, this Commission should expect in June to see the final draft of the RFP for Commission review and approval.

President Hudley-Hayes asked for clarification regarding Mr. Baker's assistance in moving forward. Deputy Mayor Decker stated he is the individual who can determine the technical infrastructure needs of the fire alert system. In other words he can determine for every fire station whether the infrastructure is available to support this newer technology. The fire alert system already exists, but for the newer upgraded models we need to be sure that the infrastructure exists to support that new technology.

President Hudley-Hayes asked what the cost is going to be to get it upgraded so that it can support it. Deputy Mayor Decker stated any needed upgrade and cost should be included in the RFP, because we do not want to put in a new fire alert system without the infrastructure needed to support it. President Hudley-Hayes reconfirmed all of that will come back at the June meeting.

**3. GENERAL MANAGER'S REPORT – Continued**

**C. Significant Incidents/Activities**

1. [BFC 12-067] – Significant Incident Summary report for the period of April 2 through April 8, 2012.  
Recommendation: Receive and file.  
ACTION: RECEIVED AND FILED.
2. [BFC 12-072] – Significant Incident Summary report for the period of April 16 through April 22, 2012.  
Recommendation: Receive and file.  
ACTION: RECEIVED AND FILED.
3. Verbal report regarding compilation of Significant Incident Summary reports.

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Deputy Chief Mario Rueda welcomed Commissioner Skobin. On Friday in the Venice area we had a six-inch main give way and it resulted in flooding over a wide area. Numerous LAFD resources were called in and after several hours of dewatering innovative work, they were able to salvage quite a bit of property. It is unfortunate two properties were significantly damaged including some expensive vehicles. But firefighters did a yeoman's job keeping that river out of those homes because it took DWP awhile to figure out which actual shutoff would shutoff that main. It was a relatively new main according to DWP. The other item was a trench collapse which was on the Beverly Hills, Los Angeles border so both agencies dispatched. We ended up assisting Beverly Hills for several hours. Unfortunately, the individual in the trench was deceased, they were not operating within the law with shoring and it did take several hours working with the investigative agencies to remove the victim.

Deputy Chief Rueda reported that on May 1 in support of the LAPD we deployed a number of resources. The Chief approved augmented staffing and both Command teams and some of our other resources to deploy resources in and around the downtown area and also we worked with the LAPD bureaus in coordinating other events that were taking place around the City. We were committed to making sure the protestors were safe and our law enforcement partners were also taken care of in the event of an injury. We did have one injury of a police officer that was struck with a skateboard. Lastly, this past week we announced the arrest of an arsonist we had on film since 2010, during the Lakers event. He was caught on video setting a taxi cab on fire and this past week the Chief and the Mayor announced that arrest. The message was two-fold; celebrate responsibly when you come to Los Angeles and secondly that the Arson Section will track you down if you engage in this behavior.

- D. Verbal report on the disposition of LAFD matters considered by or referred to City Council/Committees during the period of April 18 through May 15, 2012.  
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.

Assistant Chief John Vidovich reported on the following matters:

Fire Chief and Fire Administrator Sal Martinez reported to the Budget and Finance Committee on the status of next year's budget. Mr. Martinez will be conducting an overview of that presentation in his report today.

Councilmember Englander introduced a motion requesting that the Fire Department, with the assistance of the CAO and CLA, be instructed to report with recommendations for implementing a false alarm fee that would provide cost recovery for the resources associated with responding to reoccurring false alarms. For the last six months the Department has been working on compiling that report and will be presenting a written report to the Commission at the next meeting [June 5].

Councilmember Englander also introduced a motion that the Department be instructed to report on the status of implementing the Field Data Capturing System as part of the Department's new ambulance billing system in light of next year's budget showing an additional \$5 million in increased revenue. Again, at the next Board meeting [June 5] we will have a written report explaining the revenue collection.

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The City Council approved a new Fire Station 15 in the USC area at 30<sup>th</sup> and Hoover. The Department along with the CLA is working on a new MOU for the station to be constructed beginning September 1, 2012.

President Hudley-Hayes asked for clarification regarding Councilmember Englander's motion. Assistant Chief Vidovich stated a false alarm fee, involves looking at the number or frequency of false alarms that the Department responds to and whether or not we can collect revenue for the false alarms.

President Hudley-Hayes asked if it was the same thing the Police Department does when your home alarm system goes off three times and there is actually nothing wrong and then they bill you. Assistant Chief Vidovich stated that is correct. President Hudley-Hayes asked if there is something different that happens with the Fire Department. Assistant Chief Vidovich stated there are certain occupancies that we respond to a high number of false alarms and we are looking at the frequency and the number of occurrences to see whether or not it would be beneficial to collect a false alarm fee.

President Hudley-Hayes asked is it different from what happens with your home alarm system. Some buildings have some alarm systems that come directly to the Fire Department? Assistant Chief Vidovich stated no, it is monitored by a private company who then contacts our dispatch to let them know they have a fire alarm activation within a facility and then they dispatch.

Deputy Chief Mark Stormes stated the basic difference is that burglar alarms are put in at the owner's choice; fire alarms are mandated by ordinance and code. Therefore, inherently they are different. The false alarm could be triggered by the device doing exactly what it was intended to do – it is giving you early warning of a potentially dangerous situation. We have to be cautious as we move in this direction because if the system is doing what it was intended to do it would be counterproductive to hold the occupant responsible for the system that we required them to install. But there are systems out there that are lacking maintenance and do need to be addressed and that is where our focus is.

Commissioner Alan J. Skobin commented on the brush clearance letter, addressing Deputy Chief Stormes that he did go on the computer and entered a certification of self inspection. Commissioner Skobin continued, false alarms are something that the Police Department deals with and they were able to go from an inefficient system to an efficient system. He knows that they spent millions of dollars to develop this system for billing on false alarms and the system can be partitioned off and you can actually use part of it without having to go out and buy a new system. It is just necessary to provide the labor because LAPD does not have the labor to do it. So it could be a very cost effective way to handle billing without having to reinvent the wheel. He does know that can be partitioned off so that each has its own data, not accessible to others and probably save the City a lot of money in not reinventing the wheel. Deputy Chief Stormes stated we are working on it in two fronts; on the Fire Prevention side as well as on the ASB side. Mr. Martinez has been working with the CLA and CAO looking at and figuring out how we can use the system that LAPD is using.

Commissioner Jill Furillo stated her question is with respect to ongoing items with City Council. The Fire Commission supported several resolutions going forward at the City Council with respect to restoration of services and she is requesting an update on where those resolutions stand.

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Assistant Chief Vidovich stated that in regard to restorations of services, prior to Commission this morning, we had a joint labor-management meeting. UFLAC has proposed a restoration, a first year of a proposed five-year plan for restoration. Tomorrow, he and President McOsker will be meeting with Councilmember Garcetti who has been instrumental in supporting the Department towards this five-year restoration plan and we should have an update on what our agreements are at the next Commission meeting [June 5].

President Hudley-Hayes stated there was a very productive labor-management meeting this morning. She, Commissioner Tolentino, Fire Chief Cummings, Assistant Chief Vidovich, Assistant Chief Palacios and President McOsker and Chief Rose reached an agreement to make a good faith effort to be able to meet and at least present items that there is consensus around, so Councilmembers do not think that there is no consensus about anything.

Commissioner Furillo stated that with respect to the Commission, we have sent to the Council letters stating how we feel about restoration of services with respect to specific resolutions that have been proposed. She thinks we need to make sure that we get reports back on where that is at.

President Hudley-Hayes asked is there a way, in order to honor Commissioner Furillo's request for Commissioners to get some kind of an update, even an e-mail to the Commissioners. Vice President Tolentino commented just a general e-mail. Commissioner Friedman stated if we get it fine, otherwise, we do have the reports done every two weeks. President Hudley-Hayes stated but two weeks from now the budget is going to be settled, by the next Commission meeting this will be a fait accompli. President Hudley-Hayes addressed Assistant Chief Vidovich; just if we could know in case there is anything that we think we can do that would be helpful. She confirmed with Mr. Martinez that the budget is done on May 21<sup>st</sup>. It would be too late to get something back at the next Commission meeting; we are going to need to do that quickly. Fire Chief Cummings agreed.

- E. Status of revised written report on Almeida Conciliation Settlement Agreement (prior BFC 12-050).

Fire Chief Cummings stated they would like to bring that report back, the written report, back to the second Commission meeting in June [19]. We are making sure that we get all of the information that the Commission has requested so that the report will have sufficient detail to address the questions that previously came up.

President Hudley-Hayes stated so we are clear about the six things that the Commission asked: 1. history, 2. terms of the settlement, 3. timeline for how everything will be accomplished, 4. an explanation of the three elements called for in implementing the agreement including distribution, training and reporting elements, 5. description of the pro-active steps the Department is taking to be sure that this does not happen again, and 6. an explanation of how implementation of the CTS is going to help capture these types of complaints much sooner, and how PSD will move these types of investigations much quicker.

Vice President Tolentino stated President Hudley-Hayes captured everything. It went from the Personnel Committee then to the Board for fuller report. Fire Chief Cummings concurred.

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**4. OLD BUSINESS**

- A. Verbal report on status of releasing dispatch/response information under the Health Insurance Portability and Accountability Act (HIPAA), the California Confidential Medical Information Act (CMIA) and the California Public Records Act (CPRA).

Recommendation: That the Board provides instruction to staff and adopts any necessary action relative to the release of dispatch/response information under the Health Insurance Portability and Accountability Act (HIPAA), the California Confidential Medical Information Act (CMIA) and the California Public Records Act (CPRA).

Battalion Chief Alan Norman, Department's HIPAA Privacy Officer, stated in 1996 the Health Insurance Portability and Accountability Act (HIPAA) became law. It was a sweeping health care reform measure and one component of HIPAA was privacy of patient health care information. In 2009 the Health Information Technology for Economic and Clinical Health Act known as the High Tech Act was signed into law by President Obama. This was a supplemental to HIPAA and among other things it provides for increased civil and criminal penalties for disclosure of patient private healthcare information. It provides for a breach notification policy. It also provides for an ability of the State to prosecute for HIPAA violations as well as the Federal government. HIPAA is based upon individually identifiable health information of our patients. Individual health identifiable information is that information that is past, present or future information regarding a patient's health which can be reasonably linked to that patient. The City of Los Angeles and by extension its various Departments have been designated under HIPAA as hybrid entities. A hybrid entity is a department or an entity that performs HIPAA covered functions as well as non-HIPAA covered functions. In essence the Fire Department is a health care provider, we deliver EMS and that would be a HIPAA function, but we also provide fire prevention services which is not covered under HIPAA, thus the designation hybrid entity. The Police Department has medical facilities for people in custody so under that auspicious they are a covered entity. They do other things that do not relate to HIPAA, hence again the designation of a hybrid entity.

Battalion Chief Norman stated there are three types of entities that are covered under HIPAA: health care providers (which the Department is one of), health plans and health care clearing houses. Individually identifiable health information that is stored electronically by paper, or any other media, is designated as protected health information. The essence of HIPAA is protecting that information. Protected health information can be released without the patient's consent for only three very specific categories under Federal Law. One is for health care, one is for billing purposes, and one is for health care operations. The privacy rule which is the overlying governing policy of HIPAA, what we can release and what we can't release, has 19 designators that are considered protected health care information. Among those are addresses, patient's names, zip codes, birth dates, and a whole variety. It is not just simply the patient's name and the address. There are many things that can be used to identify a patient if those information items are redacted; they are known as de-identifiers. The Department has been working collaboratively with the City Attorney for quite a while in seeking opinions and advice regarding HIPAA. HIPAA was primarily written for hospitals, for health care agencies and not specific to pre-hospital care providers, but being that we are a pre-hospital care provider, ambulance service is a pre-hospital care provider, we are all health care providers. HIPAA is applicable to us.

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Battalion Chief Norman stated he mentioned the requests we have had and working collaboratively with the City Attorney. The City Attorney currently is developing a city-wide HIPAA policy that governs all Departments. We are the largest HIPAA consumer, for lack of a better term, within the City as we provide health care to the public. Again, we are working collaboratively with the City Attorney's Office, we have received much advice regarding what information can be released, what information cannot be released based upon our requests we will continue to seek opinions and work with the City Attorney. Being that HIPAA is so complex, not only at the Federal, but also the State level, we have also requested opinions from the State Attorney General regarding HIPAA and California Public Records Act requests.

Fire Chief Cummings commented it is a complex issue and all fire service organizations that have an EMS component are wrestling with this because the California Public Records Act collides with HIPAA. As Battalion Chief Norman pointed out, we are working collaboratively with the City Attorney's Office and with the Mayor's Office to develop a Department policy for the release of that information; what we can legally release, and we will bring that written policy back to the Fire Commission as soon as we develop it and the attorneys have given us some direction on moving forward.

Vice President Tolentino asked if there a sense of urgency about this; I appreciate the background, but we needed the answer 2-3 months ago, and we are here again just working out opinions and soliciting them. Is there a certain interim HIPAA policy that we are following? What are we doing now?

Battalion Chief Norman stated there is a sense of urgency in that HIPAA is Federal law and it also transcends into State law. There are criminal and civil penalties for failure to comply with HIPAA provisions. The Department has done quite a few things to mitigate some of our HIPAA exposure: 1) we now collect our patient care data information electronically. That has substantially reduced our exposure to disclosure of protected health information – going from paper mode to electronic mode; 2) Have also developed and promulgated a comprehensive Departmental Bulletin that came out at the beginning of this year describing HIPAA, describing the restrictions on disclosing patient care health information and reemphasizing that all patients are entitled to privacy relative to the protected health information; and 3) Have also identified a vendor who specializes in EMS-related HIPAA issues and they have developed a very good DVD that addressed pre-hospital care HIPAA issues which we will incorporate into our training program for HIPAA. The Federal Government mandates that all covered entities/hybrid entities must develop HIPAA training programs for their workforces. The Federal Government does not specify what the training programs are; the training program that we have identified is specific to pre-hospital care providers and we have some unique challenges that hospitals, doctor's offices and insurances offices do not have and based upon the content of the DVD that he and Chief Raenar have reviewed, in terms of work product for pre-hospital care providers, we think this could be a very good training program and hopefully we will have it out with the training bulletin within a month or two. Therefore, there is a sense of urgency, the Department realizes the sense of urgency given the Federal and State regulations and we are addressing it.

President Hudley-Hayes commented so we do not have a training program right now, but we are going to have one. Battalion Chief Norman responded we will have one; we have issued two Departmental Bulletins. The second bulletin serves as a foundational element for our training program and contained within the language of the Departmental Bulletin is direction from Chief Deputies that all Commanding Officers shall review the

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contents of the bulletin with their members and designate in their personal record books that this bulletin has been reviewed. The Departmental bulletin serves as a training foundation, there is also language in the bulletin that if there are questions, that the Privacy Officer, himself, should be contacted to answer any of those questions.

President Hudley-Hayes stated we got a report that laid out the 18 issues, 19 now, why does each City need to have a separate protocol? There are Federal, State and State Attorney General Guidelines, is there any flex in it? Battalion Chief Norman stated HIPAA is Federal legislation and as such it preempts State and local legislation unless the State and local legislation is more restrictive than the Federal legislation. We base our requests to the City Attorney's Office and our policies on the Federal level because the Federal level is essentially the law of the land because in 2009 the High Tech Act was signed into law by the President of the United States.

President Hudley-Hayes commented I thought we got a very clear letter from the City Attorney's Office with regard to what could be released and what could not be released. We are now going back and looking at this again, or we are trying to figure out whether or not we should follow that? It appeared the letter we got mirrored what the Federal legislation had put in place. She understands that a part of what is problematic for us somehow or another there is a belief that outside entities can't capture response times as well if things get redacted. Fire Chief Cummings stated right.

President Hudley-Hayes stated that is the crux of why we are having this conversation. She does not think that should be the thing that drives us. What should be driving us is compliance with the Federal legislation, the HIPAA legislation that in fact shields the patient. She finds all of this to be a bit odd. Fire Chief Cummings stated we do have opinions, but again HIPAA touches so many parts of this organization and the opinions we have are very limited to just one type of information released, the CPRA request release, but we have HIPAA exposure in quite a few places in the City and in the Fire Department. So we are trying to make sure we have a comprehensive policy. President Hudley-Hayes stated not for the whole City, but just for the Fire Department. Fire Chief Cummings agreed and stated that is what we will bring you. President Hudley-Hayes stated it is not just the CPRA requests we are talking about. Fire Chief Cummings stated it will be any time we touch that personal health information, that private health information; we want to make sure that we have a comprehensive policy that keeps us within the Federal Law.

President Hudley-Hayes stated we started getting the State of the LAFD e-mails and thanked the person sending them to Commissioners. It seems to be comprehensive. She asked if everybody saw these, not just internal to the Fire Department, but outside. Fire Chief Cummings stated no. Commissioner Hudley-Hayes commented, only internal to the Fire Department. Fire Chief Cummings responded, correct.

President Hudley-Hayes stated it seemed to her it was a fairly clear, comprehensive item about what happens on a day-to-day basis, it indicates if it is an uptick or a downtick, but everybody does not get these. Fire Chief Cummings stated no. President Hudley-Hayes asked why not, can they get them, is there some reason that they do not get them. Fire Chief Cummings stated we will look at that and see if there is any information that is within them that...a lot of it, especially the links in it are for the Intranet so some of the functionality is not there. It is for an internally consumed document. Chief Cummings said that for the Significant Incidents, that information goes out on Media

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Alerts, so that gets sent out to the media for the significant incident, but we will look at that if the Fire Commission would like us to, we will look at that particular.

President Hudley-Hayes stated I am not saying that, I was just asking, but I am saying that this seems to be fairly comprehensive information that we are getting. We did not get it before, but we get it now and thanks to whoever is doing it now. She is struggling with how much information we need to give in order to make people understand that we are being as transparent as possible while we are still making sure that we are following the Federal HIPAA guidelines. It is not a question that needs to be answered now, but that is the struggle that I am having. I understand that the media, electronic and print media, would like to know things and they want to make sure that we are not doing something that the public can't see and evaluate, but I am beginning to think that we are really turning ourselves inside out about something that is controlled by Federal legislation.

Fire Chief Cummings stated we struggle with releasing as much information as we possibly can. We would like the public to know exactly what it is that we are doing everyday, those 1,000 plus calls a day that we go on. We are looking for ways to get more information out; staffing restrictions are part of the problem. We have a staff of two to do all of our community and media relations which we struggle with that to make sure we are getting out timely information. President Hudley-Hayes asked that somebody look into it. Fire Chief Cummings agreed. President Hudley-Hayes stated this [State of LAFD] tells you a lot. Fire Chief Cummings stated we will have the Community Liaison Officer look into that. President Hudley-Hayes added it does not seem to me that we are abridging anybody's privacy rights.

Battalion Chief Norman stated what we attempt to do when we develop media alerts and notifications of this sort is to examine them and ensure that they are not violating HIPAA and when there are questions the HIPAA legislation is very complex and the more we drill down into it the more complex we are seeing it. We will seek advice from the City Attorney's Office in a written form to educate us – exactly what we should be doing, what we should not be doing and based upon City Attorney advice we will promulgate that advice out to the field to address operational issues. HIPAA is very complex; it is a very serious law with criminal and civil sanctions if we fail to comply.

Commissioner Furillo commented to recap Battalion Chief Norman's report, we have a current policy, and the Fire Department has a current policy with respect to HIPAA, correct? Battalion Chief Norman responded yes, that is specifically addressed in our Departmental Bulletin that was issued at the beginning of this year. Commissioner Furillo asked if the HIPAA policy has been communicated through the ranks of everyone who works at the Fire Department through a training program. Battalion Chief Norman responded not an official training program as of yet, that is being developed with the outside vendor. What has been communicated is the Departmental policy has gone out in the Department Bulletin which outlines HIPAA and the High Tech Act.

Commissioner Furillo asked for example, if she is a firefighter working in the fire station, is it the expectation that everyone reads those bulletins. Battalion Chief Norman stated yes. Commissioner Furillo asked is there a process where the Battalion Chief might take that bulletin and do some kind of additional training onsite. Battalion Chief Norman responded, not as of yet. What the bulletin states is that the Commanding Officer of the individual members, and by extension of the Battalion Chief, over the Captains is

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responsible for ensuring that members read the bulletin and are compliant with the HIPAA regulations.

Fire Chief Cummings said that included in the body of that bulletin, was direction to all the Company Officers to ensure that all the members had read and understood the bulletin and they documented that. That was the training that we have in place now. The training that Battalion Chief Norman talked about is additional training as we look at the video that he had that as we have ongoing training regarding HIPAA. Commissioner Furillo stated she knows this an evolving issue. She works in the hospital environment where this has been going on for many years and she knows that one of the problems that have been identified in that environment is that the lack of training, the lack of communication and therefore, people innocently violate HIPAA without having an understanding of what they were doing. With special emphasis on social media sites for example; someone who might just say on their Face book page, 'last night, I had this patient', they may not have used the patient's name, but even recounting any incident would be considered a violation.

Battalion Chief Norman stated that one item specifically addressed in that Departmental Bulletin, is utilization of social media, tape recorders, cameras, anything of that nature is strictly prohibited by the Department because it is a violation of HIPAA. It violates a patient's privacy. That is one point that we really emphasized in the creation of this Departmental bulletin.

Commissioner Alan J. Skobin requested copies of the two bulletins for any Commissioners that would want them. Battalion Chief Norman agreed. Commissioner Skobin continued, one of the lessons learned from Bill Bratton was you can expect what you inspect. Oftentimes, we saw that things either were done, but not properly documented or sometimes not done, but documented. What procedure do we have to verify that it has been done and he would assume/hope it is actually signed by the people undergoing the training/reading as well as the person responsible for it? Battalion Chief Norman responded the bulletin specifically directs supervisors to review the Departmental bulletin with their Commands and to document in the Station Journal and their personal record books that the training was completed. Commissioner Skobin asked if they document by name, who it was completed with, and who then inspects it to be sure that it is actually done in all the fire stations.

Battalion Chief Norman responded he could not speak to that with any degree of certainty, but we can certainly find out that information. Fire Chief Cummings stated we have a electronic tracking training system – 393 entries – and as we develop the video tape and further training for HIPAA we assign unique training codes for each of those events, and each member then has the hours and that training code entered into their electronic record and then our training division can search those to make sure that everyone was accounted for and what members were not because they were off or absent and then go back and ensure that we get that training. That is the electronic accountability piece, but the first piece that we put in was to get the bulletin out, make sure the officers were reviewing them and then enter in each member's personal record book the accountability piece that they had actually taken that training. Those are inspected when we have annual inspection at the fire stations one of the things that the Chief Officers do is they go through each member's personal record book.

President Hudley-Hayes addressed Deputy City Attorney Janet Jackson and asked if that would fall under somebody now asking for a CPRA request to be able to look at all

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of that stuff? Deputy City Attorney Jackson responded she would need to look specifically at the California Public Records Act to see whether or not it falls within the specific personnel exemption. There are personnel records that are exempted under the public records act request. President Hudley-Hayes stated she is asking because it is the question you do not ask that tomorrow will get three billion CPRAs saying we want to go in every fire station and look at things that she thinks Commissioner Skobin has rightfully raised in terms of keep us on track. But she also does not want the other untoward thing to happen, that the CLO tomorrow to have nine billion requests saying this happened in Commission, they said it in Commission, now it is a matter of public record and we want to have...what, we have 107 fire stations with three shifts – we certainly do not want that to befall us. Could we make sure that we do not have another firestorm about what can be released or what can't be released. Deputy City Attorney Jackson responded that is something that the City Attorney's Office will, when the question is posed, will look at, but as you now there is nothing to stop any member of the public from making a public records request.

President Hudley-Hayes agreed, but where we get caught is when we refuse it and then all of a sudden we get this backlash of we are trying to hide something. President Hudley-Hayes asked if she could pose the question now. Deputy City Attorney Jackson stated you can pose the question now and I can get back to you on an update with that, but I will alert you that there is a personnel exemption under the CPRA that protects the privacy rights of the employees. President Hudley-Hayes stated that is all I want to know, I want to get that on the record because I do not want us to get caught in this loop. Fire Chief Cummings stated we will make a formal request; the CLO will make a written request to make sure that we get clarification. Battalion Chief Norman added there is also an exemption under CPRA about disclosing any medical records.

Commissioner Skobin stated he hoped that after this discussion every Battalion Chief or Captain would be looking quickly at the personnel record books to be sure that this is in there, but he would ask the Chief – this is certainly something that is not the core competency that firefighters are trained for, right? Fire Chief Cummings stated right.

Commissioner Skobin continued, rather than wait for the annual inspection, is it not possible to task at whatever appropriate level, Battalion Chief or not, to maybe do random sampling of one station in their command and one shift and check to be sure that what we believe is happening is in fact happening? Fire Chief Cummings stated absolutely, that is definitely possible for us to take a look at. Chief Cummings further stated that the men and women in this Department have quite a few of these critical tasks, training issues that they are trained on and we enter information. Also the Battalion Chiefs, half of them now without Emergency Incident Technicians, are bogged down in a lot of the administrative tasks of running their battalion instead of actually being able to get out and to do some of these things. We are challenged there as well to make it happen, but absolutely. We will look at a process, Battalion Chief Norman if you could look if we can do some spot checks to make sure that that training did go through and then again it will be much easier with the ongoing training as we get those electronic entries because we can actually check them from training.

President Hudley-Hayes stated that she had the opportunity and the luxury to have Battalion Chief Norman give her a great lesson around HIPAA; she thanked him for it.

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**Public Comment**

Mr. Pat McOsker, UFLAC President, commented the two month old HIPAA protocol is a 'boogie man' that was created first as a media blackout and now has become a Union and a City Council blackout. We believe the Mayor and the Fire Department circled the wagons when we were being scrutinized regarding response times. What they really were and what they really are and for that reason suddenly, even though we are 7-8 years into HIPAA Federal Law, it has not changed, the rules here have changed and we could not share with the media how fast we were getting on scene. We think that is wrong, but now we are trying to get that situation fixed. The City Council took us up on the offer and passed a motion recently taking advantage of the computer software that the IAFF possesses to tell us how to be NFPA 1710 compliant and where we are right now and unfortunately the HIPAA 'boogie man' is what the Department has used in not sharing with the IAFF incident, on-scene locations, or scene locations. That basic information is not being shared so that we do not have this scrutiny now by the IAFF, the help from the IAFF. Please do something about that, the men and women that do this work we appreciate the fact that the media is interested in this, we think that basic information can be shared. I open my Los Angeles Times this morning and I see that there is an article in there about the County Fire Department having a ride-along and the information that is in that article far exceeds what we supposedly now can't share. We think this is nothing more than "circling the wagons"; we want you to lift that blackout, please share the information with the IAFF so they can help us to get on-scene on time for people and make this a safer city.

Commissioner Furillo stated she had a question regarding the current policy that is in effect at the Los Angeles Fire Department with respect to HIPAA and in going forward the report that this is an evolving policy and there is a process in place now to update this policy. What is...is there inclusion of the IAFF Standards. Mr. McOsker responded there is blackout right now; the Council passed a motion taking advantage of the offer of the IAFF to use GIS software, their modeling response time software to tell us where we are and how we can be NFPA 1710 compliant just with the fire stations that we have now. Council wants that information sent to the IAFF so that they can do that work for us. I was on the phone with them this morning. They can't do the work because for the last month the Fire Department has been hiding behind the HIPAA 'boogie man' and saying we can't tell you which addresses we responded to back in 2008 or right now; we can't tell you that. We think that is wrong. By the way, I get that State of the LAFD e-mails too every morning; I get them on my Union e-mail system so we know they go outside the system. There is information in there not just about the location of the dispatch, but the gender of the person and whether or not there were injuries and so forth. We know that there are two sets of rules here. There is the stuff we want to share and we do that and then when we don't want to share we hide behind the HIPAA 'boogie man' and say that somehow we can't do that; that we violate privacy. Rank and file firefighters are more concerned about people's privacy than anybody. We are the caregivers, we are the folks out there that are respecting people's privacy, respecting their dignity, providing care, but we also want the public to know about the work we are doing and we want you all to know and elected officials to know what the real status is of how many resources we have and whether or not we are adequately protecting people with the amount of resources you have given us, and they are not getting that answer right now.

President Hudley-Hayes commented but of those 18 things that were on that list that say that they are a violation of a patient's privacy, two of those things are people's names and their addresses – how do we get around that? I understand what you are saying

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about the fact that response times should be transparent and honest and we should be letting the media, or anybody else in the City know, how quickly we are getting to a medical emergency or to a fire structure emergency, but she is wondering if the Federal legislation says here are 18 things that should not be released and the top two are patient name and patient address, how do we get around that? Because that is important in terms of us getting the response times right, but on the other side of that issue is this thing that clearly states these 18 things that you are not suppose to release. That to me seems to be the crux of the issue as opposed to using words like hiding behind it or blacking it out, or things like that that. That issue has to be resolved, right? Mr. McOsker responded the patient name.

Deputy City Attorney Jackson cautioned the Commission from engaging in a discussion and conversation with a public comment. President Hudley-Hayes asked if Mr. McOsker could answer. Deputy City Attorney Jackson responded a brief response. Mr. McOsker stated do it the same way that hundreds of fire departments all across America are doing it; the IAFF is doing this work right now not just across America, but Canada as well. They have done it hundreds of times, they have done it just this way. By plugging in incident location information which you have to have; nobody wants anyone's name to go out there. But we should be able to and can like other Department's all across America, tell people where we are responding to or where we have responded to. And I would like to see what the City Attorney's Opinion actually is, I think the Fire Department ought to waive that City Attorney client-privilege so we can all see because we are not confident the City Attorney's Opinion, we have not seen it.

President Hudley-Hayes commented the Commission waived it.

Commissioner Skobin asked if Commission discussion could be reopened about HIPAA. President Hudley-Hayes responded it is not closed yet, we are still on the agenda item. Commissioner Skobin stated we are in a great period right now. We know we have Mr. Godown working on one piece that we will hear about later, the Department is working on things and people are saying we need to get different opinions and there also are various places that the data might be released to. On one hand he is hearing that there is IAFF that works with Departments for the purpose of crunching data to try to have reliable figures and there is a public safety interest in that because that relates to getting resources of people and saving lives. On the other hand we have the interest of the media, but I think the public is interested in both and we may not be able to address all of it today, but when you have a group such as the IAFF which is crunching numbers; helping determine reliability and data for fire departments, why would we not be able to enter into a consulting agreement and have them sign the appropriate confidentiality provisions in order to assist us in this task just as we would any other consulting agency. Fire Chief Cummings responded staff is working on that now to see if we can release that data with the address information to IAFF; that is currently in the process to make sure that we can legally give it to them, and there is an operational need, to give them that data. Commissioner Skobin added that by signing a confidentiality provision that should suffice.

President Hudley-Hayes commented Commissioner Skobin is asking whether or not the Department could enter into a consulting arrangement with IAFF. Commissioner Skobin responded maybe at no cost to use, but at least that would provide the veil of confidentiality. President Hudley-Hayes added Commissioner Skobin is saying in addition to releasing the information, can there also be a consulting relationship. Commissioner Skobin stated he would think that any time we give them data and they

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are working with the data to help us, there would need to be that dialogue rather than monologue; so he is looking for a vehicle to accomplish that and also accomplish the HIPAA compliance. He cannot believe HIPAA would not allow an entity to seek outside advice as long as they are appropriate confidentiality steps.

President Hudley-Hayes asked is that part of the relationship that we are having now. Fire Chief Cummings responded right now we are just seeing what information we can actually release, UFLAC has extended IAFF as a resource. As soon as we find out what we can release we will look and see exactly what they can offer for us and how we can work with them. Commissioner Skobin commented I would hope we would have a dialogue and not a monologue. Vice President Tolentino commented in listening to the Commissioners and the events, there needs to be a better sense of urgency. I thought this was resolved a couple of months ago and it is coming back one more time and it is going to drag out and it does not serve the media, it does not serve the public, it does not serve the citizens. We need to have this resolved immediately. President Hudley-Hayes agreed and reiterated she heard Commissioner Skobin saying, which she does not hear Fire Chief Cummings saying, is he is suggesting and recommending that there be a dialogue. And what the Department is doing now is figure out what information you can release; Fire Chief Cummings stated correct. President Hudley-Hayes commented those are two different things in my mind. Fire Chief Cummings responded once we see what we can release then we will contact IAFF and establish a dialogue. President Hudley-Hayes asked what is the holdup with you trying to figure out what you can release and what you can't release and what Commissioner Skobin is talking about in terms of confidentiality? Fire Chief Cummings responded staff is working to see if we have an operational need, if one of those three needs...so that we can release that private health information. Fire Chief Cummings responded I do not, but we will get that information back to you. We have the sense of urgency, the difficulty is that these are all legal issues and the Department employs no attorneys so we are bound by how we get the legal advice and the fact that even the State Attorney General has not weighed in on this yet and it is a statewide issue, it is a Federal issue. So there is not a lot of clarity yet.

Commissioner Furillo commented I do not see the harm in reaching out to IAFF; you do not have to divulge any information to find out what it is they actually do. You can solicit information about what their process is and then at that point you can figure out whether or not we want to move forward based upon whether you have to give out information or not give out information, but there is no harm, from my perspective in reaching out to them and finding out what is it that they do, how do you do it, what are your processes and what does it cost; all those things to get the information and then make a determination, after you have done that, as to whether or not this is where we want to move. We can all make that determination together.

Commissioner Skobin agreed, because they probably have gone through this before and they may well say here is what we have to satisfy the needs. Then we run it by the City Attorney and see where we are.

President Hudley-Hayes reemphasized, it is a different thing that we are asking and that Commissioner Skobin is sunshining and Commissioner Furillo is echoing. Can you have that conversation is what I think they are asking; can you have a conversation with them to find out what do they do, how do they do it and what their protocol is. Fire Chief Cummings responded if it is the Commission's desire for us to reach out and establish that working relationship with the IAFF in order to look at our response time information,

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yes we will do that at the Council's directions. President Hudley-Hayes asked does it need to be a motion. Deputy City Attorney Jackson stated yes, if you are directing the Chief. President Hudley-Hayes asked Commissioner Skobin for a motion. Commissioner Skobin commented he did not feel a need to direct the Department, but made the motion.

**MOTION** (Skobin/Furillo): That the Board direct the Department to reach out to IAFF to determine what programs and resources they have to assist the Department in deployment and also included in that will be HIPAA compliance.

**ADOPTED:** AYES – 5

- B. Verbal report on Department's budget presentation to the City Council Budget & Finance Committee on April 30, 2012.

Mr. Martinez stated that on Monday, April 30, the Fire Chief went before the Budget & Finance Committee to respond to verbal questions regarding our budget. We were for the most part very happy with the results of our budget; we did receive quite a bit. He provided quick highlights:

- General Fund – received one additional Fire Assistant Chief position to act as a point-of-contact for communications and oversight for fire services within LAX.
- Able to increase our Constant Staffing Overtime Account by \$32 million; one of the problems we experienced this year was a shortfall in that account. This will help us achieve a great deal to alleviate that problem in this account.
- Also received funding for one regular authority for one engine company that will be stationed in the West San Fernando Valley. That consisted of three Fire Captains, three Engineers and six Firefighters.
- In addition, we have restored authority and funding for 9 EMS Captains.
- Lastly, we received \$75,000 for funding for the purchase of modules to be installed in our vehicles to help us better track and monitor fuel usage in the Department. This is part of that Fuel Audit which will be addressed later.
- In addition, we were fortunate in our MICLA allocations this year. In the past we were limited to about \$6 to \$7 million and this year we are reaching about \$15 million for the fleet replacement.
- As reported earlier, we were fortunate in receiving \$12 million for the replacement of our Fire CAD System which will help, as well as an additional \$5 million for the Fire Station Alerting System which Deputy Mayor Eileen Decker discussed earlier.
- Lastly, we received \$4.1 million for the replacement of module radios and dispatch computer/fleet.
- In addition, revenue was another key area in this year's budget. We have been fortunate in our revenue collection this year and we are looking at a promising year next year. This year's collection will be about \$141 million and that is on target for our budget. Next year we are projecting about \$169 million and that is due to the influx of our AB 678 money we are expecting next year as well as the efficiencies in the operations of our electronic data collectors for our paramedics and our fire staff as well as Intermedics, our partners, we are achieving a greater success in terms of our billing processing. The automation and improvements are continuing next year and that will help us achieve approximately \$169 million in revenue which is one of the largest for the non-Council controlled departments. Outside of the Department of Water and Power, Harbor and Airports, we are the largest department; we are the department that brings in the most revenue for the City.

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- In terms of the Unappropriated Balance, \$750,000 was set aside for the third party review of department employment of resources for the constant staffing module that we use as well as third party consultant as part of a comprehensive review of LAFD resource deployment.

In terms of the presentation the Fire Chief made, there were follow up questions that the Budget & Finance Committee asked. They submitted 13 questions to the Department. The bulk of them were revenue related questions. There were follow up questions about cost and funding for adding additional resources back to the Department, the Supply and Maintenance staff in terms of repair to the fleet, questions on our staffing there; as well as the transfer of three inspectors from LAX to deal with new construction projects and the impact and development projects within the City as a whole. We submitted these responses to the CAO who coordinated the response for the Budget & Finance Committee.

Mr. Martinez reported that today the CLA is scheduled to release its written report on the Budget & Finance Committee in response to the hearings. They will be weighing in with their recommendations to the Council. Following that, this week we will hear a lot of back and forth between Council asking questions about the CLA report. We do expect some follow up questions to the Department. This will all culminate on Friday. There will be a public hearing for the budget. Following that on Monday, 21<sup>st</sup> Council is scheduled to hear the full budget and at that time they may or may not vote on it, or may vote on it a prior day, but it is scheduled for full Council on the 21<sup>st</sup>.

President Hudley-Hayes asked for clarification regarding the \$750,000 to a private consultant to do the LAFD Deployment Study. Mr. Martinez responded that although there are ongoing reviews and audits by the Controller, the Council put that in to provide a third party review, outside of the City, to have this third party review response times and deployment of resources. That was inserted there by Council. President Hudley-Hayes asked, so the Council does not trust the City Controller's Office? Mr. Martinez responded they wanted a third party review.

President Hudley-Hayes stated this is a lot of money to now yet have another third person. We have the City Controller who is doing an audit; I think the Fire Department is doing a great job of looking and auditing. This is a lot of money. We are short on money already and we are trying to get restoration. Are we pushing back at all? Are we asking why? That is a lot of money in our budget to have yet another audit.

Commissioner Friedman asked are they not earmarking it for that. Mr. Martinez responded yes. Commissioner Friedman commented if they are earmarking it for that, they are saying spend it – we are giving you that extra money to do it – how can we say we do not want it. President Hudley-Hayes responded we could say we want the extra money, but we do not want to do that with it. Fire Chief Cummings commented that is what I told Council and Budget & Finance; if they gave us the \$750,000 we would use it for additional resources. However, if it is their direction that we have to use it for this audit we will support the audit. President Hudley-Hayes stated no, we will say we got the direction, but that is not what we would like to do. Can't we say that?

Commissioner Friedman responded if the City Council says we will give you \$750,000 for 'X', but we will not give it to you for 'Y'. President Hudley-Hayes responded then we are saying we are taking it for 'X', but I do not want us say that we are fully supportive of it. We ought to say, 'we really wish you would look at giving us that \$750,000 to do

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something that we feel is going to be better used in the interest of public safety.' Our people are struggling and straining under the load right now. Fire Chief Cummings stated that is what he said to Budget & Finance, if that money came to the Department it would be better used for emergency resources.

**Public Comment**

Mr. McOsker commented I agree with you very much and I think that is exactly what you should push for. If you spend this money on doing another deployment study it is money wasted that won't go toward opening a fire company or ambulance or something like that of value. We have seen this done before; we have seen the City hire a hired gun to write a consultant's report about deployment. They end up coming up with all kinds of dangerous, unsafe ideas. When Dick Riordan was the Mayor they did that and their report said that we should operate with unsafe numbers of firefighters on fire companies. That we ought to give away the ambulance business or take one paramedic out of an ambulance. Ridiculous stuff that it took us 10 years to fight against, that any hired gun will give you if you pay them enough money to write that report. There is already a staffing deployment report that has been written and is based on sound science and thousands and thousands of hours of work and expertise and that is the NFPA 1710 Staffing Standard. A nationwide standard on how we should be staffed and we are not meeting it right now. Three components of that thing, it has to do with staffing, but it also has to do with response times and it is crystal clear how we are not meeting it right now on response times. Let's don't waste \$750,000 on yet another consultant study; let's just follow the guidelines we have right now and get to the work of restaffing the Fire Department. I would ask you to take that affirmative stance so that the Council hears it even louder and more clearly than they heard it in the hearing the other day.

Vice President Tolentino commented there is the funding for Commissioner Skobin's consulting agreement. Commissioner Skobin responded he is not proposing we pay for that consulting. President Hudley-Hayes commented it is one way to do some other creative things. Commissioner Furillo commented for a future agenda item, with respect to this issue, I would like us to have a report on this NFPA 1710 Staffing and as soon as possible. Mr. McOsker stated to be clear it is the NFPA 1710 Standard for the Organization and Deployment of Career Fire Departments and a lot more stuff, but it tells you how much staffing you should have and how quickly you should get there and what those different roles are for the fire companies that show up.

Ms. Leticia Gómez, Commission Executive Assistant, asked for confirmation if the report was to be written. Vice President Tolentino and Commissioner Furillo responded yes. President Hudley-Hayes added whatever is written, the Department is not going to write anything. It is already written out, isn't it?

Deputy City Attorney Jackson clarified the report to the Commission. The question is will the report from the Department on this be a written report. President Hudley-Hayes responded yes. Commissioner Friedman commented there is an actual document; we really want to have comments from the staff regarding that document. President Hudley-Hayes stated they just put a cover letter and say that this is what we asked for and here it is, when it comes in our packages. Fire Chief Cummings stated we can make that happen; we will put a cover Board Report on top of it and will comment on it at the next meeting. Ms. Gómez commented if the goal is for the June 5 Board meeting, the due date for that would be May 24<sup>th</sup>, next Thursday. Fire Chief Cummings commented it is completed; all we have to do is print the report, put a one-page cover on top saying that this is the report and we will have it for that meeting.

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- C. Status of revised written report on the Department's Response to the Assessment of the Department's Disciplinary Process and Professional Standards Division (prior BFC 12-039).

Assistant Chief Dean Ulrich, Professional Standards Division (PSD), reported that one of the first items is the additional office space for PSD including storage space, evidence room and interview rooms. PSD has been working closely with the General Services Department (GSD) trying to identify alternate locations throughout the City. Unfortunately, we have not been able to find anything that has met our needs. A report was developed for the Fire Chief who instructed staff to look at a restacking of the three floors, 16, 17 and 18 to see if we can get more space for PSD.

President Hudley-Hayes commented I thought some decision had been made. Fire Chief Cummings responded it was, we looked at some space at one of the facilities we are using on Figueroa, and when Assistant Chief Ulrich went over with staff to review the usage of that space it was inappropriate/inadequate for their needs. We are back to square one and attempting to look at moving some staff around from that facility to this facility, restacking what we have here and to carve them out the space that they need.

Assistant Chief Ulrich continued with the review of the Rules and Regs. PSD has finished Sections 1-9 and passed them on to the Planning Section. We are currently looking at a revision of 10-17 and should have it done this week and will give it to the Planning Section as well.

President Hudley-Hayes asked what the Planning Section does with it then, in this process. Chief Richmond responded what we will do is, working with PSD, we will integrate those changes into a final format and a Board Report to the Fire Commission. President Hudley-Hayes asked if the first one was coming forward any time soon; the 1-9? Battalion Chief Richmond responded 1-9 is currently at Planning. President Hudley-Hayes confirmed you are going to wait for the 10-17 so that we get one document? Battalion Chief Richmond responded yes. President Hudley-Hayes asked how soon it can come to Commission. Fire Chief Cummings responded the second meeting in June [19].

Assistant Chief Ulrich reported PSD has also been asked to draft a Procedural Manual. Currently, Chief Investigator Paul Hayashida is gathering information for that manual. He is working on a couple of complex cases right now and we are clearing his calendar so he can start working on this and should have some kind of product for the Commission within two months [July 17]. PSD investigators have also received new computers.

- D. Status of written report on LAFD response time data.

Mr. Jeff Godown stated I think all of you have a copy of my 30-Day Initial Assessment Report that was given to the Mayor's Office and I am prepared to answer questions and concerns in reference to the report. Vice President Tolentino responded we just got this before the meeting, if you could highlight that it would help. President Hudley-Hayes commented it was on our table when we came.

Mr. Godown stated that historically the LAFD used a CAN Crystal Report which is a terminology for software, and for years, such as LAPD did for reporting crime and arrest data, the response time data is generated by personnel that are assigned down at

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Communications and they have been generating response times for years. Around 2009, when the Deccan System came on board the Deccan system then had the modeling component and you also were able to analyze response times based off the Deccan system also. So you have two systems, you have a Crystal Report that looks at response times and a Deccan system that looks at response times. Where we are today and where the biggest issue for me is and my concern is that the program written in the Deccan system software has different variables in the backend that allow you to pull out response times and feel comfortable that all the terminology and the programming in back gives you adequate and accurate response times. When the Deccan system came on board there needed to be a transition so all that same information, all that same programming, would be put into the Deccan system. Thus, when you asked it the same question it should come up with the same answers. As of today we are not getting the same answers and that is my concern. As I said in my report, right now I am not confident that the numbers are accurate until I take more time to look at it. What I am doing right now is working with the Deccan Company, and I have communicated to the Fire Chief, he is well aware of the situation and we are looking to determine why the answers are not similar in nature. That is what we are working on now. His analogy would be like when you go to get your taxes done, you go to a tax person, they have a computer, they put in your information, they push the button and out comes your return and you hope and pray that all the information is updated, all the information is the way it is suppose to be in the backend of that system. You just have to trust that computer that it has everything in it that it is suppose to have. And where we are now is looking at the problems with the Deccan system, the modeling component and making sure that both software components are working together and in essence they are doing the same. When you ask it  $2 + 2$  the answer should be 4 on both systems and as of right now that is not the answer I am getting. That is what we are working on so it is taking some time to compare the backend and having to go back and look at all the different file components to make sure that what is going on behind the scenes is what is going on in both systems. We are working with Deccan. Deccan had to go back to the drawing board. I brought to their attention some issues with the modeling component and the percentages. They realized that there was a problem with the system, they went back and looked at that and they are suppose to send me a report that I can send to the Fire Chief to let him know what Deccan has done to adjust their modeling component. How that modeling component will change, I do not know. I do not think it will be a drastic number difference.

Commissioner Skobin commented so you have that versus the Crystal Report. I have some familiarity with Crystal Reports. Whoever assembled the Crystal Report and put that program together, have you gone back to be sure that all of that criteria and everything in the Crystal Report is absolutely accurate so when people run the report they are getting pure and accurate data? Mr. Godown responded that is a conversation that occurred yesterday and are double-checking to make sure the Crystal Report System is accurate. Commissioner Skobin asked so we do not yet know, but will know soon? Mr. Godown responded he was fairly confident that the Crystal Report is a better system to use and we can still use that as opposed to Deccan, but if you are going to ask me - I am not the programmer - am I 100% confident that the backend of the Crystal Report is programmed sufficiently I would not be able to answer that question.

Commissioner Skobin asked will you be looking at the Crystal Report to be sure that it is 100% accurate, or at least accurate to a standard that is acceptable. Mr. Godown responded yes. President Hudley-Hayes asked if that is the IAFF. Fire Chief Cummings responded no, that is our internal report process for reviewing the response time data

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that we have used historically, and we do have the programmer system's analyst here and he confirms that they have looked at the backend and it is giving us accurate data for the Crystal Report. When Mr. Godown talks about the CAD Analyst and the Deccan Software and the Crystal Report and there being inconsistencies when we run similar date ranges, those inconsistencies, we are not talking huge inconsistencies; we are talking seconds difference over large databases/data sets, 377,000 calls a year.

Fire Chief Cummings asked Mr. Godown to characterize the differences seen in the numbers. Mr. Godown responded I do not think the differences are going to be drastic, not 5 minutes to 7 minutes. The problem is now that when he queries the Crystal Reports for a 24-hour period for calls for service in the City it gives him an answer of 10,000, then he queries the Deccan system and the numbers/incidents do not match up. Commissioner Skobin asked what percentage difference is there between the two systems? President Hudley-Hayes added is it statistically significant? Mr. Godown responded he couldn't tell them with certainty until he is able to reconcile both databases. Commissioner Skobin asked how significant is the deviation at this point? Mr. Godown responded seconds-wise I can't tell you because I am not able to bring the system up on board 100% to determine the runs that were prior to us fixing the system.

Commissioner Skobin commented I am trying to compare what you are saying to the report and I am hearing different things. At this point he is not alarmed, but that we need a lot more work. He is hearing that we really do not know if it is an insignificant difference that could be a rounding error that could be a percentage of a second over thousands and thousands of reports. Or if it is something that would be of significance that it needs management changes, correct? Mr. Godown responded correct.

Commissioner Skobin commented it is important to have a perspective of what we are looking at. The report says there are some issues being looked at, but no feel of the problem. I think I am hearing it is not a huge problem, but it could be a statistically insignificant problem. Mr. Godown responded correct.

President Hudley-Hayes stated one of the problems is that we just got this [report]. There are three recommendations in the report and, in not having had the opportunity to read the report; it is difficult to have a good conversation about it. Why didn't this go out in our packages?

Fire Chief Cummings responded that originally this report was a draft of a report that Mr. Godown was going to be bringing first to the Fire Commission. Before we put together a final report as Mr. Godown continues working through to get some certainty of the numbers. The initial draft was requested by the media so it was released. President Hudley-Hayes asked is this it? Vice President Tolentino commented this is just the initial 30 days. Fire Chief Cummings responded that is a draft report. President Hudley-Hayes continued so it was released to the media and now it is coming to us [Fire Commission]. Fire Chief Cummings responded yes.

President Hudley-Hayes asked Fire Chief Cummings why the report was not sent to the Fire Commission when he sent it to everybody, i.e., once it was released to the media, why did he not send it to the Commission as well? Fire Chief Cummings responded he found out that this was being released to the media last night.

Commissioner Furillo in regard to the recommendations in the report, some involves continuing to work with Deccan to figure it all out. Is Deccan used by other fire

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departments, is this the standard or is it not? The second is the recommendation on page 5, bottom, makes it look like there is something about the way that the Department has responsibility for data analysis that is somewhat fragmented. Fire Chief Cummings reiterated this is a draft report and this is not the report they would be bringing back to Fire Commission. President Hudley-Hayes addressed Fire Chief Cummings, it is not marked draft, and it has been released. Somebody could read this and believe this is a fully vetted report, and that keeps happening to the Commission. It is not a good way to do business with the Commission. Mr. Godown commented prior to my arrival in March, the L.A. Times posted a news article that said that I was supposed to present the Mayor with a 30-day status report. I did that, gave it to the Mayor's Office last week. The L.A. Times inquired as to whether or not I had submitted my 30-day report, I told them I submitted my 30-day report to the Mayor's Office. Calls were made to the Mayor's Office and yesterday evening is when the Fire Chief was confronted with the fact that this was going to be released to the media. All this has taken place in the last 12-14 hours and that is my initial 30-day assessment.

President Hudley-Hayes clarified if it was done 14 hours ago, then we should have gotten it 14 hours ago as well. Fire Chief Cummings responded our goal is to get it to the Commission before everyone else got it. Vice President Tolentino agreed with President Hudley-Hayes' issue. Commissioner Friedman inquired regarding the last recommendation on page 4 – do we know for a fact that at this time that there is actually a modeling problem? Mr. Godown responded yes, Deccan admitted that there was a modeling issue that we brought to their attention and they are working on figuring out on the backend how to rectify that situation. Now how significant that problem is, how big a difference is that going to make as far as the modeling percentages, I do not know.

Commissioner Skobin asked about two areas, page 5 regarding the Crystal Reports and research being done in other software programs without one point of contact. What is meant by "without one point of contact?" Are we researching it because there is a lack of confidence in the Crystal Reports or some other reason where it may be difficult for people to manipulate the data? Mr. Godown responded the Deccan software is very robust, very technical and the skills are very perishable. The men and women in this Department are very dedicated to doing what they get paid to do; they should not be in the business of data minding. This should belong to civilian employees that should be in that position. Unfortunately, because of budget cutbacks, the Fire Chief has no choice but to put firefighters in that position. This is a position where people need to be in there on a full-time basis and the IT, Deccan, or mapping components that the Department will in the future look to bring on board has to go through one contact. Can't have an operational Chief looking at one component for putting dots on a map and then having an IT person looking at a CAD component and someone else looking at a Deccan component – everything has to go under one command. That will alleviate some of these problems.

Mr. Godown continued, there is other mapping software they are looking at, i.e., like the Crime Analysis Mapping System, but for radio calls. Mr. Godown stated if we can't get the response times right, we are going to have issues as far as credibility. Commissioner Skobin noted that the top of page 5 of the report referenced "crime" response data. Mr. Godown responded it is "call" response data.

Commissioner Friedman addressed Mr. Godown, when you come up with an accurate response time, will you also emphasize that in addition to that response time we always have the dispatch/service time which varies from 1.5 to up to 3 minutes? Mr. Godown

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responded that one of the components of the COMPSTAT/ISTAT profile will be that call processing time, i.e., when an operator picks up the call until dispatching the call. Commissioner Skobin asked which operator. Mr. Godown responded LAFD. Commissioner Skobin asked what about trying to capture the LAPD side because that is critical. Commissioner Skobin described the process of a call coming into the LAPD call center, the LAFD call center and finally being dispatched. Mr. Godown commented the only issue with that is the LAPD will give you a spreadsheet that has their average call processing time. When we look at the LAFD data we are actually looking at the incident and that has different timestamps on it so we can follow that trail all the way down. It is going to be an issue of how we acquire those timestamps from the LAPD. Commissioner Skobin stated it had been conveyed to him that they would be happy to provide anything that they have the capability of extracting. So if it is possible, I know we have their full cooperation. Fire Chief Cummings commented we will work with LAPD and if it is the Commission's direction from this point forward we will report response times from the time the call is initiated until the time that we get on scene. Commissioner Friedman stated that is exactly what I would like to have done. President Hudley-Hayes agreed as we talked about this at the last meeting. Commissioner Skobin commented he noted it in the minutes of the last meeting. Fire Chief Cummings responded that is the way we will bring it forward. Agenda Item 4.G. notes the Quarterly Report and as soon as we finish the work on the Crystal system and the Deccan system and we have the accurate numbers, that is the way we will bring them forward – both the first quarter report and the second quarter report. Fire Chief Cummings stated he anticipated this item for the first meeting in July [3]. The Department will be able to give both reports and will include from the time the call is initiated through the time our resources are on-scene.

Commissioner Skobin commented he had lived in the world of COMPSTAT for many years and worked with Mr. Godown, but having now been out to one Fire Station he realized more the different types of calls we have, different equipment and it is really important to measure different types of calls for service, i.e., paramedic, not just one average response time for the Department. It is important to get down to the station level and the shift level. In looking at the COMPSTAT process, last recommendation of the report, would he be correct that the process would be not to take what LAPD is doing and try to bring it over, but to him COMPSTAT is about measurement, accountability and transparency. Would you in essence be starting with a clean deck working with the stakeholders (Fire Chief, UFLAC and others, industries, associations) and saying what does a highly efficient and effective fire department measure? What are the things that are important to the Department running well? Whether it be response time, sick time, personnel complaints, and build a base on those things that should be measured in a well operating, efficient Fire Department.

Fire Chief Cummings responded that Mr. Godown is identifying software systems and ways to display the particular data that we will want to display as we move forward with this; staff is looking at what are the measures of efficiency and effectiveness for fire service with an EMS component similar to the LAFD and it is more than response times. There are quite a few different metrics we are looking at and we will bring those forward. The first data that we will get will be the response time data because it is there and we can capture that, but we will look at every aspect of what we do from work comp claims to personnel complaints, community relations activities to fire prevention inspections, everything that this organization does. We will be looking at those outputs and how we can measure them and use those as gauges of how well we are doing or where we can

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make improvements. Commissioner Skobin commented if the Department can use COMPSTAT to help prioritize. Mr. Godown agreed.

Mr. Godown stated as we look at risk management and over time in sick and IOD and all these other components, we will probably find issues with how that data is extracted and maintained and possible human error as how they put it in. Lastly, one of the concerns I have is that in regard to the Crystal Reports, running and making sure that the programming behind the scenes of the Crystal Report system is consistent with the Deccan system. We will find that the Controller is going to come out with their report, and the L.A. Times will come out with their report, and someone else will come out with their report, and if the backend of that system is not querying the system in the same fashion that we are querying the system there are going to be different numbers and we will need to look at them and figure out why. I am anticipating that is what is going to happen with these reports because I do not know how they program. LAFD call data is very, very complicated. There are nuances, i.e., multiple engines, there is a litany of things I have learned in the last 1.5 months that make it very technical and you have to have somebody that understands that programming; understands what is in the backend of that. Obviously, the entities that are taking our data are not using the same system that we use so we are prepared to come back with a report and address what their numbers are going to be.

Fire Chief Cummings commented absolutely, and that is what we are going to need to look at because we do not just look at all thousand calls a day, but we look at EMS calls and break it down to the most advanced EMS calls, we look at structure fires, so we break down a bunch of different categories and each of those calls could have multiple resources that went with different en route and on-scene times. There is a level of sophistication that goes into that Crystal Report. There will be minor differences in the data. All the calls from 2007-2011, that is about 1.5 million incidents with multiple resources, so multiple lines of data; a lot of moving parts. Mr. Godown agreed and added we have to be careful that as these other entities are doing the runs that we make sure that we can come back and look at their methodology. Right now I am working on if you run the Crystal Report for 'X' criteria it states there are 200 incidents involving 'X' criteria and in running the Deccan report it states 175. Once reconciled, they will move on to the actual response time calculation.

Commissioner Skobin commented everybody wants perfection, but we also recognize that it is not always possible and you look for exactly what Commissioner Hudley-Hayes talked about and that is statistical significance. If you only accept perfection as opposed to that which is statistically significant, perfection becomes the enemy of change. And you have to be willing to accept a statistically insignificant number in order to move forward and progress with the bigger picture items, the things that are most important.

**Public Comment**

Mr. McOsker commented I am skeptical. What we have seen so far is that the Mayor got this 30-day report first and released it to the press before the Commission saw it. Mr. Godown may be as good as Commissioner Skobin says he is and we'll assume he is the most honest guy on earth, but if we do not do it differently, I heard him describe that he needs to be the point-of-contact on everything, all data must pass through him and all information must exit through him. If that is the way we are going to do it, we might as well call the position the Mayor's Minister of Propaganda.

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President Hudley-Hayes commented that is not what he said. Commissioner Skobin commented it was not him [Mr. Godown]. Mr. McOsker commented that is what I heard. President Hudley-Hayes commented Mr. Godown said there needs to be one point-of-contact. Mr. Godown commented I am hoping it is not going to be me. President Hudley-Hayes wanted to clarify for the record. Mr. Godown commented on the Fire Department there needs to be one person, one supervisor, one point-of-contact, one IT person, whoever that might be and it will not be me. I can guarantee you that.

Mr. McOsker continued, our Mayor has a vested interest in reporting response times. We have already seen him manipulate: we have seen three Fire Chiefs and more than three different stories about our response times over the last three years. The Mayor cut the budget for the Fire Department, took ambulances and fire trucks off the street. We are not getting there on time and now he has appointed another guy to tell us what response times are in L.A. I am skeptical and unless there are outside entities looking at this, unless the rank-and-file is watching the work that he does, and we have been completely blocked from that from the beginning and we talked about it in that room in Labor-Management this morning. We are not going to trust any of these and we hope that the Times and the Daily News and the rest of them in the back of the room don't trust any of it either because the Mayor is manipulating the reporting on response times and that needs to stop. If we are going to have a Minister of Propaganda, let's have people working with him and looking over his shoulder to make sure that this stuff is reported honestly and accurately.

President Hudley-Hayes commented each Commissioner serves on a Commission Committee. If talking about a single point-of-contact, somebody who meets with Mr. Godown who understands this information, Commissioner Skobin seems to be somewhat of a subject matter expert. Could we ask Commissioner Skobin if he would be that one liaison on this issue of COMPSTAT, on this issue of working with and understanding what Mr. Godown is doing and being able to bring that full report back like Commissioner Furillo brings things back from the EMS Committee; we [Tolentino/Hudley-Hayes] bring things back from the HRDC/Personnel Committee. This has been a very full discussion, but we could get even better information if we also had one person who thoroughly understands this. Commissioner Skobin commented, if the other Commissioners are willing, he would ask that it be on response time and COMPSTAT, and be able to work not only with Mr. Godown, but with the Department and any other parties or entities that would have a stake in this.

Commissioner Furillo agreed and commented in her experience in having worked with technology in the hospital setting we found so many times that the promise of technology and the reality of people, sometimes it does not all come together. You have technology dictating one thing and the human element saying another thing; there needs to be stakeholders that reflect all of that. You are looking at the technology, looking at this and trying to capture response times with technology, but also we need to hear from the firefighters who are doing the actual work and there has to be that input.

Commissioner Friedman commented a sub-committee would be listening to Mr. Godown as a liaison for the Commission; however, Mr. Godown was talking about a full-time individual that is going to be always in charge of that. President Hudley-Hayes agreed, she clarified it would be a liaison, that the Commission approve that Commissioner Skobin would be the liaison and the point person for the Commission. Commissioner Skobin added on response times and COMPSTAT.

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**MOTION** (Furillo/Friedman): That the Board appoints Commissioner Skobin as a liaison to provide oversight on behalf of the Commission for deployment, response times and COMPSTAT [ISTATLAFD].

**ADOPTED:** AYES – 5

- E. Verbal report from the Mayor's Office regarding the status of the Fire Alert System. Taken out of turn at the beginning of the meeting.
- F. Status of revised written report on In-Kind Donation for Executive Leadership Retreat for March 27-28 (prior BFC 12-052).  
Fire Chief Cummings stated the report would be coming back the first meeting in June [5]. President Hudley-Hayes referenced BFC 12-078 – In-Kind Donation for Apple Software to Support the Interactive Learning Station, and suggested using it as a template. Fire Chief Cummings agreed and commented the report is completed and will be for the first meeting in June.
- G. Status of Deployment Plan Quarterly Report (First Quarter).  
Fire Chief Cummings stated this item would be coming back with the first and second quarters in the second meeting in July [17]. That will include from the time the call comes in to when resources are on-scene. Ms. Gómez asked for clarification regarding the scheduling date for this item and Fire Chief Cummings reconfirmed July 17.

**5. NEW BUSINESS**

- A. [BFC 12-076] – Response to the Controls Over the City's Fuel Use  
Recommendation: That the Board approves the report and recommendations.  
  
Fire Chief Cummings stated next Fire Commission meeting we will bring forward the audit as the Fire Commission did not receive a formal public record of the audit. The audit along with a cover letter will be provided. It was sent electronically to each of the Commissioners.  
  
President Hudley-Hayes asked that this item be held to the next meeting. Assistant Chief Tony Varela commented the audit is complex, there are a lot of challenges, a lot of accusations, there is a response from the Fire Department.  
  
President Hudley-Hayes asked when it comes forward we will get the audit and included in that we will have the Department's response to the audit? Fire Chief Cummings stated correct and it will be the first meeting in June [5].
- B. Status of written report regarding "Review of ARRA [American Recovery and Reinvestment Act] Competitive Grant Funding for the City of Los Angeles."  
  
Assistant Chief Mike Little, Homeland Security Division, commented that Federal grants certainly are enabling a tremendous amount of good to be accomplished for the Department and how we protect our community. Particularly as it relates to the significant issues of natural disasters and also acts of terrorism. Federal grants are responsible for the lion's share of our USAR and HazMat equipment acquisitions and also specialized training. A large percentage of his staff are grant funded which allows support of catastrophic incident planning, intelligence sharing, simulated training, and also support for current terrorism efforts within the region. Most grants come out of the Homeland Security Grant Program, but there are exceptions and we look out to identify

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those exceptions and look for programs, equipment, and training that can be funded by those grants. It is certainly a savings to the City.

Assistant Chief Little stated one example is the ARRA of 2009. On February 13, 2009, Congress passed the ARRA at the urging of President Obama. This was a direct response to the economic crisis that we are still encountering. This Recovery Act has three immediate goals: to create new jobs, save existing ones, spur economic activity, invest in long-term growth, and foster unprecedented laws of accountability and transparency in government. The Act intended to achieve those goals by providing \$787 billion in tax cuts, benefits for millions of working families, funding for in time and programs and funding for Federal contracts, grants and loans. Two of those grants that we have sought to benefit from are the Port Security Grant Program, and to date we have brought in roughly \$150 million in funding that has been utilized for our PDOG LB Port Dive Operations Group which looks at a variety of interagency issues in the Port: the dive equipment, some HazMat training, and new technologies to address emerging threats in new technologies. Another one of the programs available to us is the Assistance to Firefighter Grants and we have pursued these grants.

Mr. Bill Jones, Contracts and Grants Management Section, reported the Assistance to Firefighter Grants program is the vehicle by which funding that was allowed under ARRA was provided to fire departments. In 2009, the LAFD submitted an application for the expansion of the USAR Building at Fire Station 88 and a number of our facilities in the Port area, and for enhancements to improve power supply as well as communications. Unfortunately, the application was not adopted. Under the Port Security Grant, with \$150 million available nationwide, the Fire Department has engaged with the Port and has received approximately \$2.5 million and these funds are being spent.

Commissioner Skobin asked for clarification regarding the grant not adopted. Mr. Jones responded regarding the Assistance to Firefighters Grant Program, at that time we were looking specifically for projects that would enhance or build out some fire station facilities or enhance them through the communications or power supply issues. We were shovel ready; unfortunately, the program did not meet the criteria the Feds alluded to.

President Hudley-Hayes commented the Commission wanted to make sure we are preparing, training and teaching our people so we do not lose any grant funding at all. We understand that we have been losing out on grants. Assistant Chief Little agreed, largely the reason has been it is a collateral function of one of our chief officers whose duties have also included HazMat, Sea Bernie Training, and we have not had a dedicated Grants Section. That has been resolved and we now have very competent staff assisted by the Mayor's Office and they are doing a great job. Assistant Chief Little reiterated the amounts for grants received in 2009, 2010 and 2011.

Commissioner Skobin asked if there are also grants where the Airport might apply, as we are sending an Assistant Chief to the airport, and then that money is shared with us. Is that funding by a grant that the Airport has, or the Airport's budget? Fire Chief Cummings responded it is from the Airport's budget, they are paying for that Chief Officer.

Commissioner Skobin asked if there are times when the Airport or the Port might apply for a grant and that a grant might include a firefighting component that we would benefit from. Assistant Chief Little responded we look at the requirements for all the grants that

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we apply for; he mentioned various grants and commented they aggressively pursue grants. Discussion was held regarding some of the grant process.

Mr. Jones added we do collaborate with other City Departments when possible, i.e., Bureau of Street Services. Fire Chief Cummings stated challenges in the grant process are the civilian staffing reductions and a matching funds component required in some grants. Commissioner Furillo asked if there is staff available to evaluate why we were denied in the future. Fire Chief Cummings responded we are challenged to keep up with the grants. President Hudley-Hayes commented the \$750,000 previously mentioned for a new study – we now find two things where the money could be used better for the Department. Here is the pushback: we are a revenue-generating department and Mr. Godown commented we need one dedicated person. They [Council] could tell us what they want to do with the leftover, but we could carve our piece out. Fire Chief Cummings agreed.

Mr. Jones stated we reach out to the Federal FEMA Grant Managers throughout the region. We always inquire as to grants when we have not received an award as to what we could have done better and to seek exemplars of what other agencies are doing to assist in the next round of grant applications. Assistant Chief Little added we meet with the Mayor's Office on a weekly basis to assess progress and issues encountered.

Ms. Gómez asked is there a goal date for the written report and audit to be submitted. Fire Chief Cummings asked what the Commission needed in the written report. President Hudley-Hayes commented due to the shortage in staff and need to work on grants; this item is not a priority. Commissioner Friedman suggested October; Ms. Gómez noted October 16.

- C. [BFC 12-074] – Audit and Assessment of Fire Department Litigation  
Recommendation: That the Board receive the report and approve the recommendations.

Mr. Steve Miller, Independent Assessor, reported that he and Alexa Daniels, Special Investigator, prepared an audit of Fire Department litigation going back a number of years. This kind of report can be difficult for the Department in terms of looking at some raw areas of Department operations. He emphasized the cooperation received from the Department. The Risk Management staff, Chief Ottman, and the rest of the Department have been exceedingly cooperative, and I appreciate the level of work they have engaged in and the professionalism in extending an open door and access to information.

Mr. Miller stated as indicated in the overview and report, historically the Department, the City, has spent a lot of money on litigation. Some cases are old cases, but there are also a number of cases that continue. There are continuing appellate cases, and there are continuing cases that have not reached trial as yet. Over the last 10 years, in reviewing the available financial information by the City, the total amount when considering interest on judgments, judgments, attorney's fees, even in successful cases the total amount is about \$38 million. Two areas that are important for the Fire Department are EEO cases that have received a lot of publicity over the years, and a couple of those continue and still confront the Department. Another area is FLSA, or the requirement to pay overtime. Obviously an easy way to avoid that problem is to pay overtime and get into the problem of having to pay penalties and attorneys fees. I think the Department has retained counsel who has some expertise in FLSA areas of liability and exposure to try to cap that problem, but that is an area that should have been taken

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care of long before now given the history of FLSA lawsuits confronting the Department since the late 1990s.

Mr. Miller stated in reviewing litigation risk management, we concentrated on litigation cases in this report, and is the City does have a Directive on dealing with litigation, what a department should do and what the City considers to be important in terms of monitoring and following litigation. Unfortunately, at the start of the audit the Department was not completely aware of Executive Directive #9, which sets forth the requirements for litigation risk management. The Department does a very good job in terms of litigation liaison work. Uniformly the attorneys from the City Attorney's Office or private counsel are complimentary of the Department in terms of the support function the Department provides in terms of litigation support, and for those who have tried lawsuits, there is a great deal involved in supporting to the litigation effort. It is a very time consuming task and it is something the Department does an excellent job performing.

Mr. Miller stated the area where the Department can improve is in the area of risk identification, prevention and management. I have tried to provide some recommendations on how the Department might be assisted in that area. It is true that the number of filings against the Department is down. He referenced page 20, 21 and 22 – table or chart – 3.B. gives information showing the filings against the Department involving the City and the Fire Department are down. There are still cases pending and what is important to remember is, in a number of these areas, it is a constant battle to try to stay ahead of the problem, with risk management preventative strategies and personnel policies. There are a couple of other areas of importance, but the one he would like to stress for the Commission is the fact that the Commission needs better communication on litigation matters in terms of knowing when the Department is confronting litigation and how as is articulated in Executive Directive #9. How the Department can try to identify problems and litigation as it is brought against the Department, as discovery is continuing, how the Department can try to get ahead of some of the problems that have been identified in some of the litigation. In some of those areas it would be good to communicate when the information is not privileged, and there is privileged information that cannot be revealed to other parts of the Department, like PSD, but there is information that can be shared and also there are opportunities for the Fire Commission to become involved in making sure that the Department is taking the action that is necessary to prevent litigation. One of those areas is FLSA; it has cost the City so much money.

Mr. Miller stated we have included, in addition to some recommendations, a section in the report called Looking Forward and there are proposals in the City to have departments responsible for litigation in the future. At this point much of the litigation expense comes from accounts that are controlled by the City Attorney's Office, and in the future there are proposals that the Department would become responsible for some of those costs and judgments. That is why it is important to try to deal with some of those problems in a preventative way so that resources that are badly needed for the public are not wasted on litigation. Hopefully, that will become a priority for the Department as we move forward and confront some of these proposals where the Department may have to pay the cost of litigation. Our ultimate recommendation for today is to request that the Board receive the report and the Department has indicated that they are working on a formal response to the report, and our recommendation would be that it be presented to the Board in approximately 30 days.

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Commissioner Skobin commented there are similarities under the City Charter in reference to LAPD and LAFD, i.e., Commission is head of the Department and Chief is the General Manager who reports to the Commission. The Commission has the legal authority to direct the Department in almost any area. One area that it does not is discipline although it can certainly evaluate the Chief on discipline and get involved in issues. The Fire Commission is the head of the Fire Department and as a Board, by three votes, it can direct the Department, but has the authority and is the legal head and the General Manager is the day to day.

Commissioner Skobin commented he did not understand one issue: in the Police Department where we had less authority over discipline, we [Police Commission] would meet with the City Attorney, in Closed Session, and discuss current cases in various stages of litigation. In reading the report, he sees somebody from the City Attorney's Office in one case basically say, "My people are not going to discuss this with the Commission," and the Commission is the head of the Department. While we may not be able to direct litigation, we share responsibility as the head of the Department – this raised a big concern for him as we [Fire Commission] have a responsibility to work with the Department to see that their policies and procedures are in place. We do the broader policy, they do the implementation, but someone apparently feels that the Commission does not have a role yet it is the head of the Department.

President Hudley-Hayes commented a similar conversation was held during a closed session and raised the same issues. Commissioner Friedman commented there is a major difference in the Charter provision between what the Police Commission and what the Fire Commission is permitted to do. Commissioner Skobin commented he read the Charter on both and this is an area that is the head of the Department's. I do not see absolutely anything that would be exclusionary as to our responsibility in this area. I would submit that we have greater responsibility related to this area than the Police Commission. Commissioner Friedman commented we have always been told as far as litigation is concerned, we are advised what has happened in closed session but have very little to do with the litigation. He requested this topic be put on a future agenda. President Hudley-Hayes and Vice President Tolentino commented that they have not been in agreement with the advice regarding litigation.

Commissioner Friedman commented perhaps in drawing lessons from litigation for the future as a policy we have, but that is basically what we have been doing in the past. President Hudley-Hayes commented sometimes we do not get information far enough ahead even to be able to draw, to get any lessons for ways of in fact helping the Department keep something from happening again. Commissioner Skobin clarified he was not suggesting that we direct litigation, he is suggesting that as the head of the Department, when there have been allegations made and information developed that in many of the cases, we have an interest in overseeing how the matter is being handled internally within the Department and what we can draw from that to do risk management for other cases. Commissioner Friedman recalled the Commission has been told that it has no authority whatsoever in making decisions regarding settlements or non-settlements. Commissioner Skobin agreed.

President Hudley-Hayes commented Commissioner Skobin would like for there to be a log and a listing of cases and he would like for the Commission to get that information in such a way the Commission can make sure that we have policies in place that address whatever those infractions might be so they do not keep occurring. Commissioner Skobin commented that one other large department in this City, which is also engaged in

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public safety, has recently implemented a program where two Commissioners meet with the Department's staff involved in risk management, review the cases, discuss them and where they feel appropriate bring the case to the full Commission to discuss in closed session.

Vice President Tolentino stated that was our Personnel Committee. We are now told that the Personnel Committee of the Fire Commission cannot look at any of those cases or records. We keep getting speeches from the City Attorney's Office saying that we [City Attorney's Office] represent the Fire Department – LAFD – and we do not represent the Fire Commission. How do you juxtapose being the head of the Department and yet not represented. We have raised the same item and struggled many times. This is the first litigation report of our Independent Assessor and I do not think he is even pushing the envelope. He is just fulfilling his Charter responsibilities and yet in reading some of this it strikes him so odd to be threatened with a State Bar complaint, to be said we do not communicate with the Fire Commission, they are not our client. Is that the same as in other departments where the City Attorney picks and chooses who it represents, and it represents directly the Departments, not the heads of those Departments?

Mr. Miller stated there is the issue of who controls and directs the litigation in terms of, perhaps even legal strategy, the settlement amounts, whether it should be a 998 offer – all those legal things. My personal view, am not an attorney for the Commission or the Fire Department, I think it is very clear that the City Attorney or the litigation attorney has those responsibilities. Commissioner Skobin clarified he was not asserting we do, and Vice President Tolentino agreed.

Mr. Miller stated correct, and when you read Executive Directive #9 and look at some of the cases what that Directive indicates is that the Fire Department, the head of the Fire Department is held responsible for litigation risk management in terms of preventing risk. During litigation it may be, if I am a named defendant, i.e., a Fire Captain or a Chief or an employee of the Fire Department, it is very important that I have a relationship with either the City Attorney or the private litigation counsel, that I can talk to them with complete confidence and that attorney is not going to be passing on information to PSD or anybody else and that information is completely confidential.

Mr. Miller stated one of the problems he pointed out in this report is that when there is testimony in open court or testimony in a deposition and it is information that relates to perhaps how PSD conducts investigations in compliance with the Firefighter Bill of Rights, if that information comes out in open court or in deposition perhaps the Department should know about that, PSD should know about that, perhaps the Commission should know about that in terms of making sure that the alleged violation is fully flushed out to make sure that those violations of the Firefighter Bill of Rights do not occur in the future. That is the concern I have in terms of the Commission as the head of the Department and the Commission's involvement in litigation. It would be completely inappropriate for the Commission to try to tell the attorney how to try his case.

Commissioner Furillo commented the major concern the Commission has had these past years is that the review of the litigation is crucial. We are the policy making body and what happens in litigation often times can direct where the policy has to go depending on what happens. We needed to have the complete access to that information in order to be able to make policy decisions. Mr. Miller stated it is incumbent on whoever is responsible for the litigation to ensure the information that is provided is

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more than just: the case is coming up for trial on May 15 and we will let you know what the result is. We need to know more of the substantive information keeping in mind that there is an attorney-client privilege and there are other psychotherapist-patient privileges that would prevent you and PSD and others from having that information. Certainly the public, when they are spending this kind of money on litigation, a lot of which can be prevented, we should be taking maximum advantage of what the Mayor's Office requires in terms of Executive Directive #9.

President Hudley-Hayes commented the question raised by Commissioner Skobin is the question Commissioner Tolentino and she have raised. She added Commissioner Tolentino and she, as the Personnel Committee, use to engage in all of this, the shift happened, and Deputy Mayor Decker is trying to help the Commission work through this. The Commission is at an impasse with the City Attorney's Office and feels the same way Commissioner Skobin does, but the City Attorney's Office feels differently. The Commission believes that the Independent Assessor also needs to have access to certain kinds of information if he is to be able to do his job, as does the Commission. This is something we have been working on.

Vice President Tolentino commented he is glad there is the same kind of reaction. Commissioner Skobin commented we independently came to the same reaction. Vice President Tolentino commented there must be some resolution. Does the Commission have to take any other steps so that the Independent Assessor can do his/her job? We need to set the ground rules at this point and time. Otherwise, what we created through the Charter is almost ceremonial at this point.

**Public Comment**

Mr. McOsker commented he appreciated Mr. Miller sharing the report ahead of time for review. The general recommendations on the back of the report make sense and he hopes the Commission adopts and supports them. Concerned about specifics within the report, he looked at certain cases and then he also made specific recommendations to those cases, and in many instances he [Mr. Miller] really misses the point, i.e., the Mattson case, and the change that needs to be made now is how we test for blood alcohol level and that is meet-and-confer. The real point in that lawsuit, Mr. McOsker has read the transcript, is the dozens of instances of management lying on the witness stand. Top-ranking chief officers lying. The jury dresses down LAFD management for dishonesty. Before you implement any specific preconceived notion about testing we should meet-and-confer over that. Another lawsuit is mentioned about FLSA issues; really concerned about that. The Independent Assessor, who was supposed to come on board to look at Fire Department discipline, is now doing a lot more than that, and he is operating in a vacuum when it comes to that issue. He did not talk to us and does not have our background. There have been two different instances of dispatchers being under attack and each time the Commission and the Council have taken it up and agreed we are doing it the right way now. The lawsuit there, they probably saved money on that lawsuit. The Department underpaid our members for many years and it was not until a lawsuit came forward that they had this litigation cost. Before you implement any specific things we want to be taken into account.

Mr. Frank Lima, UFLAC, commented Mr. Miller does a good job and he communicates with him often. UFLAC runs a disciplined and professional force. Litigation can be equated to chemotherapy; you go through it because you have to. A lot of these cases had no other avenues, i.e., FLSA lawsuit. The Department knowingly violated the law. He also mentioned the Firefighter Procedural of Bill of Rights came in January 2008, but

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every supervisor in the Department got training in December 2007. Four years later we have stuff coming up and our supervisors have not had any further training.

Commissioner Friedman commented he had an emergency and had to leave the meeting.

Mr. Lima commented in regards to page 114, #5 – Department too often waits until litigation is finally concluded before it decides to take any action, change a policy and the last part is “sometimes actions never take place.” That is true to this day. We have Apparatus Operators being disciplined because they impacted the budget because a wooden ground ladder has been damaged, yet we have multi-million-dollar cases that have been paid out, by high-ranking chief officers and no accountability. Regarding page 109, #29, bottom – trial results happen and juries and trials and the law has a result, but the Fire Department paints their own stroke on it and it differs with the law, and a lot of that is to cover up. A lot of good things in the report and not every problem you see in the newspapers comes from the rank-and-file in the fire houses.

Discussion was held regarding approval of the board report recommendations and the Department’s pending response due in 30 days.

**MOTION** (Tolentino/Furillo): That the Board receive the Audit and Assessment of Fire Department Litigation report and direct the Fire Department to provide the Board with a written plan of action in 30 days describing how the Department intends to implement the recommendations.

**ADOPTED:** AYES – 5

D. Status of written reports regarding pending LAFD contracts.

Fire Chief Cummings stated Mr. Martinez would report on this item and it is in reference to the spreadsheet that the Department sent regarding pending contracts.

Mr. Martinez stated what you have in front of you was our first attempt to keep you informed with as much lead time as possible on the pending contracts. This coming year is going to be a major year in terms of some large contracts with significant impact on the Department. He added that Deputy Mayor Decker commented on the Fire Alert System. We are also looking at the CAD System and in addition to that we are looking at engaging in a contract with Palantir to provide support to develop a system similar to COMPSTAT that is used at LAPD. We also have ongoing contracts and are working with the Mayor’s Office on the Unified Fire Inspection System. That will be looking at using money from the new construction services fund which are outside funds.

Mr. Martinez reported we will be submitting on a routine basis to the Commission the upcoming contracts, their schedule, the staff that will be assigned to them and potential implementation dates to give you lead time and a description of what the scope of the project will entail; you have received the first one. President Hudley-Hayes added also where the funding is going to come from, i.e., General Fund. She thanked Mr. Martinez because this is the first time I have ever seen this kind of report that came forward and we need to have.

Deputy City Attorney Jackson clarified there is no report. Fire Chief Cummings stated there is no report in this packet; we electronically sent you [President Hudley-Hayes] all the drafts to get direction. Ms. Gómez commented it was not provided. Fire Chief

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Cummings stated that is the report and if that format works for the Commission, starting on June 5 we will give you a spreadsheet with the contracts as Mr. Martinez outlined and as we e-mailed you. President Hudley-Hayes commented the only other thing she is asking is the Commission knows the funding source.

**6. NEW BUSINESS – CONSENT ITEMS**

- A. [BFC 12-068] – Quarterly Report – Forecast Exits of DROP Enrollees  
Recommendation: Receive and file.  
ACTION: RECEIVED AND FILED.
- B. [BFC 12-069] - Corrective Action Summary – Notice of Discharge, Suspension, or Probationary Termination reports filed with the Board of Fire Commissioners – April 4 through April 17, 2012.  
Recommendation: Receive and file.  
ACTION: RECEIVED AND FILED.
- C. [BFC 12-071] – In-Kind Donation for Pelican Flashlights  
Recommendation: That the Board approves the report and recommendations.  
ACTION: APPROVED.
- D. [BFC 12-073] – Professional Services Contract – Rosie Marcelo  
Recommendation: That the Board approves the report and recommendations.  
ACTION: APPROVED.
- E. [BFC 12-075] – Resolution Authority to Sign for Fire Chief  
Recommendation: That the Board approves the report and recommendations.  
ACTION: APPROVED.
- F. [BFC 12-077] - Corrective Action Summary – Notice of Discharge, Suspension, or Probationary Termination reports filed with the Board of Fire Commissioners – April 18 through May 3, 2012.  
Recommendation: Receive and file.  
ACTION: RECEIVED AND FILED.
- G. [BFC 12-078] – In-Kind Donation for Apple Software to Support the Interactive Learning Station  
Recommendation: That the Board approves the report and recommendations.  
ACTION: APPROVED.

**MOTION** (Furillo/Tolentino): That the Board approve the consent items.  
**ADOPTED**: AYES – 5

**7. ITEMS CALLED SPECIAL**

None.

**8. REQUEST FOR FUTURE AGENDA ITEMS**

- Fire Alert System RFP ready to present for review and approval at June 5 meeting. See Item 4.E. (Deputy Mayor Decker).
- Written report to include recommendations for implementing a false alarm fee that would provide cost recovery of the resources associated with responding to reoccurring false alarms at June 5 meeting. See Item 3.D. (Assistant Chief Vidovich)

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- Written report on the status of implementing the Field Data Capturing System as part of the Department's new ambulance billing in light of next year's budget showing an additional \$5 million in increased revenue and explaining the revenue collection at June 5 meeting. See Item 3.D. (Assistant Chief Vidovich)
- Update on a five-year restoration plan and agreements with UFLAC at June 5 meeting. See Item 3.D. (Assistant Chief Vidovich)
- Revised written report on Almeida Conciliation Settlement Agreement (prior BFC 12-050). Bring written report back the second Commission meeting in June [19]. See Item 3.E. (Fire Chief Cummings)
- Written Department policy on HIPAA to be developed and brought back to Commission. See Item 4.A. (Fire Chief Cummings)
- Written report on NFPA 1710 Staffing at June 5 meeting. See Item 4.B. (Commissioner Furillo)
- Rules & Regs at the June 19 meeting. See Item 4.C. (Fire Chief Cummings)
- PSD Procedural Manual at the July 17 meeting. See Item 4.C. (Assistant Chief Ulrich)
- Status of Deployment Plan Quarterly Report (First Quarter), both the first quarter report and the second quarter report will be coming back the second meeting in July [17]. See Item 4.G. (Fire Chief Cummings)
- Response to the Controls Over the City's Fuel Use coming back the first meeting in June [5]. See Item 5.A. (Fire Chief Cummings)
- ARRA scheduled for the second meeting in October [16]. See Item 5.B. (Chief Little)
- Fire Department litigation and the Fire Commission's role. See Item 5.C. (Commissioner Friedman)
- Contracts - starting June 5 provide a spreadsheet including the funding source. See Item 5.C. (Fire Chief Cummings)

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

Fire Chief Cummings identified negotiators are Battalion Chief Chuck Butler and Battalion Chief Richard Rideout.

Commissioner Tolentino left the meeting.

**10. 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.

The regular meeting recessed at 12:18 p.m. and the Board went into closed session. Deputy City Attorney Jackson stated to have conference with the 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.

Deputy City Attorney Jackson called the regular meeting to order at 12:37 p.m. and indicated no action was taken in closed session and the matter will be continued on the agenda for the next regularly scheduled meeting.

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**11. ADJOURNMENT**

The meeting adjourned at 12:38 p.m.

ATTEST BY:

\_\_\_\_\_  
GENETHIA HUDLEY-HAYES  
President

\_\_\_\_\_  
LETICIA GOMEZ  
Commission Executive Assistant I

Date: June 19, 2012

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.