The Regular Meeting of the Board of Fire Commissioners convened at 9:06 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  
  - Chief Deputy Daren Palacios (for Fire Chief Brian Cummings)  
  - Deputy City Attorney Janet Jackson
  
  Absent:  
  - Fire Chief Brian L. Cummings

• **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.

1. **PUBLIC COMMENT**
   Dr. Tom Williams, LA-32 Neighborhood Council, commented that he received brush clearance notices. He has two adjacent lots and received a notice for one lot from the Fire Department and for the other lot he does not get a notice. Maybe the other lot is under the jurisdiction of Street Services, Lot Clearing. There does not seem to be any document that states the Fire Department’s jurisdiction and/or the Department of Public Works’ jurisdiction. Last year both lots were deemed to be cleared because they are occupied. They have driveways, they have parking areas; 10,000 square-foot and it is all landscaped and/or has a structure, sidewalks and such. What is the jurisdiction of the Fire Department in the “Very High Fire Severity Areas” and what is it for the Department of Public Works, and is it officially designated?

   Mr. Greg Aniolek commented that CERT people are called up when the Mayor declares a disaster/emergency for liability reasons. He referenced the windstorms which occurred in November and noted there is the potential for power to be off for an extended time. Therefore, is there a way to send a text message out to all CERT people in the area for assistance? On another note, there seems to be a bit of hostility towards the Commission, towards the Council, about the budget cutbacks. You need to tell these people you were given a budget, you were forced into this, we have to make it work and be responsible.

2. **COMMISSION BUSINESS**
   
   A. **Announcements/Meetings/Events**
      Considered jointly with Items 3.A. and 3.B.

   B. **[BFC 12-053] – Approval of Meeting Minutes for March 20, 2012.**
      **ACTION:** APPROVED AS AMENDED.

      Commissioner Friedman read the corrections he wanted made to the March 20, 2012 meeting minutes.

      **MOTION** (Tolentino/Friedman): That the Board approve the minutes as amended.
      **ADOPTED:** AYES – 4
3. GENERAL MANAGER’S REPORT

A. Announcements/Meetings/Events

Items 2.A., 3.A. and 3.B. considered jointly. Chief Deputy Palacios reported on the events Fire Chief Cummings attended since the last Commission meeting: visited Fire Station 27 with the Mayor, Annual Firefighter of the Year Luncheon, Los Angeles African American Chamber of Commerce Public Service Award, American Legion 24th District Firefighter and Paramedic of the Year Award, Fire Chief Cummings is currently attending the Harvard Leadership Class in Crisis. For future events: April 11 – Envision Our LAFD Summit, May 12 – Fire Service Day.

Commissioner Furillo asked for background information regarding the Earthquake Preparedness Campaign. Chief Deputy Palacios deferred to Deputy Chief Mario Rueda.

Chief Rueda stated that it would be better suited to provide a full report next time on the activities. Generally, in April they schedule earthquake exercises and review the Department plan. Chief Rueda added that he could send Commissioners an e-mail regarding dates and times for drills; Commissioner Furillo agreed.

B. Calendar of Events

Considered jointly with Item 3.A.

[Item 3.C. discussed after 4.B.]

D. Verbal report on the disposition of LAFD matters considered by or referred to City Council/Committees during the period of March 21 through April 13, 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. – Taken out of turn.

Assistant Chief John Vidovich reported on the following matters:

At the March 23 Public Safety Committee meeting, the Fire Chief addressed several motions with staff that were brought to the Department by Councilmembers. Motions and outcomes:

- Motion for the Department to report back on the methodology used to calculate response times and factors contributing to changes in its methodology. This was approved by Public Safety and it instructed the Department to report back to Council. That meeting is scheduled for April 17th. Basically, the 6 minutes vs. the 5 minutes – NFPA 1710.
- Motion introduced by Councilmember Perry requesting the Department to seek an independent third party review and analysis of the Department response time statistics. Motion was approved with an amendment to identify a cost of a third party comprehensive review vs. a third party review of the Controller’s audit.
- Motion introduced by Councilmember Garcetti requesting that the Office of the City Administrative Officer (CAO) and the Office of the Chief Legislative Analyst (CLA) contract with a third party to analyze response time data. The Public Safety Committee received and filed this motion; this will be addressed by Councilmember Perry’s motion.
- Motion introduced by Councilmember Englund to have the Department report on the capabilities of technology platforms used and the operational objectives of a FIRESTAT management system. Motion was approved and instructed the Department to report back as scheduled. When motion was initially introduced the Department was given 60 days to report back and the date is April 23rd.
• Motion introduced by Councilmember Englander to instruct the Department to report on the implementation of Automatic Vehicle Location (AVL) technology with an assessment of costs, personnel and operational use. The Department verbally reported at the Public Safety Committee on the status. The motion was further approved and instructed the Department to report back to Council on this matter.

• Motion introduced by Councilmember Buscaino instructing the Department and Information Technology Agency (ITA) to provide a comprehensive review of technology issues associated with the Metro Dispatch System. Motion was approved and instructed the Department to report back.

Chief Vidovich stated that all motions have an April 17th report back date. President Hudley-Hayes asked if written reports are expected or are verbal reports being provided? Chief Vidovich stated that the goal is to provide reports in writing for historical documentation and present them to the Commission. However, with the April 17th timeline and the next Fire Commission meeting scheduled for the same date, we would give you that written report on the 17th and then report back to Council. President Hudley-Hayes asked whether the Commission would receive it in their Board packets, four days ahead of time? Chief Vidovich stated yes.

Commissioner Friedman asked about the motion to do an independent study and then the amendment to do the study of the Controller’s report; which one actually passed? Chief Vidovich responded that the motion that passed was the motion introduced by Councilmember Perry, Motion 12-0395-S1, and it directed the LAFD to seek an independent third party review and an analysis of the Department’s response times.

Commissioner Friedman asked for clarification regarding the amendment which was not to do a full independent review but rather a review of the Controller’s; which one of those passed? Chief Vidovich responded that the motion was approved with an amendment to identify the cost of a third party comprehensive review vs. a third party review of the Controller’s audit. The Controller has currently met with Department management and has begun their audit of the Department’s CAD data regarding response times.

President Hudley-Hayes commented the motion is not actually that we get somebody to review the Controller’s review. The only thing that passed is that we would be looking at the cost of that, should that be a motion that is presented and gets carried. Chief Vidovich stated that is correct.

Chief Vidovich stated that after the March 23rd Public Safety Committee meeting, two additional motions were introduced:

• Motion by Councilmember Buscaino requesting that the City Controller request to utilize the International Association of Fire Fighters’ (IAFF) GIS software performance measurement tool, as well as additional analysis provided by the IAFF as the Controller deems necessary to include in the City’s audit of the LAFD’s response times.

Discussion was held regarding the various motions, the expected date of completion of the audit and the analysis of the CAD data provided to the Controller’s Office and additional actions thereafter. Chief Vidovich stated the Controller’s Office indicated their goal was to provide something back to the Department within 90 days. Chief Deputy Palacios stated staff will come back with a firm date.

• Motion by Councilmember Garcetti stating now that the Council must move forward with fully restoring the Fire Department’s previous resource levels to reduce response times
and increase public safety, the Council should authorize MICLA funding for Department vehicle upgrades and replacement given that medical calls are approximately 85% of service calls. The Council should also direct full restoration of Fire Department ambulances, and direct the CAO and CLA to report on a full restoration plan for the LAFD.

Discussion continued regarding the restoration of ambulances, Councilmember Koretz’s motion requesting that the Department becomes fully restored for the balance of this year, motion to restore apparatus and staffing, and past letters sent to Council by Commission opposing cuts. President Hudley-Hayes requested comments from UFLAC and the Chief Officers Association regarding this item.

Mr. Pat McOsker, UFLAC, commented regarding the various motions:

- Regarding response time reporting, the Controller is the proper person to conduct a performance audit.
- Regarding the restoration of resources, supports Councilmember Koretz’s motion and Councilmember Garcetti’s motion.
- Supports CAO and CLA coming back with a plan to restore everything.
- The use of reserve monies.

Discussion continued regarding piecemeal restoration, Commission’s support of most proposals, President Hudley-Hayes is not supportive of the Perry motion, and Commissioner Furillo suggested moving forward with a letter of support for the Koretz motion and Garcetti motion.

Chief Corey Rose, Chief Officers Association, stated they also support the restoration of resources and staffing, i.e. EITs. He suggested meeting before the next Commission meeting to discuss this item.

Chief Deputy Palacios stated that the [Fire] Chief had given staff direction to start looking at priorities for resource restoration. President Hudley-Hayes stated it is not a good idea to demand that management make a decision when the Fire Chief is not present.

Deputy City Attorney Janet Jackson wanted to clarify for the record, since we are handling Item 4.B., that there are no public comment cards for Item 4.B.

**Public Comment on Item 4.B. – Considered jointly with Item. 3.D.:**

Dr. Williams commented on the subject of statistics (normal distribution or skewed distribution), and asked what are the response times, where are the data on which the response times are calculated? [He commented on the Significant Incident Summary – BFC 12-051 from the March 20, 2012 Board meeting.] He asked that the public be given a page of all the documents, as verbal reports are not substantive.

Mr. Aniolek commented there is clearly a “book keeping” change and there is not a sharp drop in L.A. Fire services. He is a chemical engineer and uses data collection to monitor systems extensively. Instead of reporting this one piece of data, you should have everything, i.e. a plot of the percent response time and percent on time on the x-axis. [He provided an example.] With the budget cuts that have been forced on you, is the Fire Department less dedicated to protecting the people and property of the City of Los Angeles? He hopes not.
MOTION (Friedman/Tolentino): That a letter be sent to the Council reiterating the previous position that the Board has always been in opposition [to cuts], requesting that the funding be restored and stating that the Commission supports the Garcetti and Koretz motions.

ADOPTED: AYES – 4

4. OLD BUSINESS – Taken out of turn.

B. Verbal report concerning response time information provided to the Public Safety Committee. Recommendation: That the Board provides instruction to staff and adopts any necessary action relative to the reporting of response time performance data and dispatch issues.

President Hudley-Hayes asked for clarification on whether the verbal report for this agenda item was already done.

Deputy City Attorney Jackson responded the item could be handled again if there is additional information.

Vice President Tolentino responded yes, Chief Vidovich provided the information; President Hudley-Hayes stated no.

Deputy City Attorney Jackson stated we could come back to it, but go to Item 3.C. which was skipped over.

3. GENERAL MANAGER’S REPORT

C. Significant Incidents/Activities – Taken out of turn.

Deputy Chief Mario Rueda reported on the mild windstorm on Saturday evening and the need to “enhance” dispatch with one additional fire company. He reported on an incident in the Hancock Park area involving an 8,000 square-foot house and a floor collapse.

4. OLD BUSINESS

A. Verbal update on the Metropolitan Fire Communications Center and Status on the Request for Proposal (RFP) for the Fire Station Alerting System. Recommendation: That the Board provides instruction to staff and adopts any necessary action relative to the dispatch issues at the new Metropolitan Fire Communications Center.

President Hudley-Hayes requested that this item be pulled because the Department is working with the Mayor’s Office, and others, to provide a written and verbal report.

B. Verbal report concerning response time information provided to the Public Safety Committee. Recommendation: That the Board provides instruction to staff and adopts any necessary action relative to the reporting of response time performance data and dispatch issues.

[Initially, partially considered jointly with Item 3.D.]

President Hudley-Hayes commented that she wanted to ensure this item was talked about in its entirety in order not to appear as we are glossing over anything. Only the motions were initially discussed, but there are other things that were reported in Public Safety and she wanted those on the record as well.
Chief Deputy David Yamahata reported that there were two response time issues and two separate motions instructing the Fire Department to discuss the response time issues. He reported that Fire Chief Cummings did the same presentation that was done at the last Commission meeting, i.e. charts; 5-minute response time was based on NFPA 1710 standard.

Chief Yamahata reiterated what Fire Chief Cummings presented to the Public Safety Committee. The goal was to provide clarity regarding the two sets of data that are out there as points of contention. Chief Yamahata confirmed that this motion would be going to full Council and Fire Chief Cummings will have a third opportunity to present this same presentation to full Council.

President Hudley-Hayes asked Dr. Williams if he was able to speak on Item 3.C. – Significant Incidents/Activities.

Public Comment
Dr. Williams commented that addresses are provided in these forms for fire incidents, but they also discuss injuries, burns, etc. [He commented on the Significant Incident Summary – BFC 12-051 from the March 20, 2012 Board meeting.] He referenced 'Dollar Loss', how about dollar cost, what does it cost to respond to a significant incident? Also, these significant incidents do not include medical. Even these reports are incomplete and inadequate.

5. NEW 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).

Chief Deputy Palacios stated that on March 23rd staff received a written City Attorney’s opinion regarding HIPAA and the CMIA relating to our CPRA requests. Staff met with the City Attorney’s Office last week to look at our CPRA requests and work through how to give as much information to the public as possible, but yet heeding their advice with regard to HIPAA compliance. We do receive about 380 CPRA requests a week.

Chief Deputy Palacios stated he forgot to mention some of the Fire Chief’s top priorities are restoring civilian resources because we are having a difficult time meeting all of these requests. We do not prioritize; it has been taken in first-come-first-served order.

Chief Palacios stated we are now starting to release CPRA requests and redact accordingly, per the City Attorney’s written letter, the information released.

President Hudley-Hayes commented that under the HIPAA Federal Regulation she counted 19 items that would put us in violation, as a covered entity, if released. The Fire Chief is still working with the City Attorney’s Office to try to figure out what can be given to anyone that has made a CPRA request. Once the conversation with the City Attorney’s Office is completed, we will need to develop a policy statement as a Commission. Vice President Tolentino agreed.

Commissioner Friedman suggested bringing this item back to the next meeting or the following meeting; President Hudley-Hayes concurred.
Vice President Tolentino asked the Department’s general counsel if he could reference the March 30 Memorandum [City Attorney Advice Regarding Media Request for LAFD Emergency Response Raw Data] at today’s meeting. Deputy City Attorney Jackson responded it is confidential attorney-client privileged legal information; any of the written advice from the Office of the City Attorney is confidential.

Vice President Tolentino asked how the Commission would use the information, as part of a closed session, in reviewing policy. Deputy City Attorney Jackson stated the Commission could review their policy in open session as it is an open session item. In terms of referencing whether or not it is compliant with the advice, I think you can do that without specifically reading the advice into the record.

Commissioner Friedman asked if it is confidential, is it not up to the client to exercise that confidentiality? Deputy City Attorney Jackson responded that would be a correct statement of law, but she reminded the Commission that because we are a public entity and the advice is given to the Department, and of course the Commission is the head of the Department, it is not an answer that is simple, as it normally would be in a private attorney-client relationship.

President Hudley-Hayes commented, but the Commission could waive privilege if it chose to? Deputy City Attorney Jackson stated that would be a difficult question because this Commission can do whatever it chooses to do, but she would like to be clear that it is not the advice on counsel that you waive any advice that the City Attorney gives the Commission. The City Attorney’s Office has advised that the Commission keep confidential communications confidential.

Discussion occurred regarding: how the information [advice] could be used; contacting the City Attorney’s Office for clarification on information provided to the Commission; possible violation of the Brown Act and/or the privilege; the duty of the Department to develop a policy that is compliant with the legal advice received for Commission approval; previous advice received regarding confidentiality and the Independent Assessor which was discussed in public; the communication [advice] is directed to the Fire Chief and his ability to waive privilege; one memo was addressed to Chief Armando Hogan and Chief Alan Norman; no matter the addressee an attorney-client privileged document should remain confidential; when the Commission previously discussed advice they waived privilege against the advice of the City Attorney; Fire Chief Cummings should be present if the Commission intends to waive privilege; the Commission is head of the Department and directs the Fire Chief; therefore, the Commission holds privilege and can waive it; only one of the three memos went to the Fire Chief; all of the advice given to the Department is given to the Fire Chief as well; and Chief Deputy Palacios would not waive privilege in the absence of the Fire Chief.

Public Comment
Mr. McOsker commented regarding an ill-advised media blackout by the Fire Chief and the Mayor, and stated he wanted to hear the City Attorney’s opinion. He stated he is grateful to the media for looking at this issue, budget cuts, and hopes the Fire Chief will waive the attorney-client privilege when he returns. He added he no longer receives the State of the LAFD e-mail because the blackout is still in affect.

Vice President Tolentino stated there should not be a delay in pulling together a policy; the Department should expedite it and apply whatever documents they want to use, i.e. City Attorney opinions.
President Hudley-Hayes commented there is information in the memorandum received that relates to HIPAA and relates to privacy of a patient's information and the Commission should not be bound by privilege here. She is aware she is going contrary to what Deputy City Attorney Jackson advised but she thinks the Commission can waive this privilege. If this item is laid over they will not talk about it until April 17, 2012.

**MOTION** (Furillo/Tolentino): That the Board waive the privilege.
**ADOPTED**: AYES – 3

The Commission asked how someone could track that the information being provided is accurate if you remove the incident numbers. Chief Palacios said the data can’t be run without the date and incident number and the Department is working with the City Attorneys in an attempt to “scrub” the date, time and incident number so the info can be released. The City Attorney has said that the incident number cannot be released because that might lead to protected information being released that would be a HIPAA violation. The Department is close to working something out. The Department does have a list of documents affected by HIPAA that will be in a report for the Commission. The March 23 Opinion regarding CPRA Request for Response Time Information involves the release of non-protected health information, which is a separate item.

Commissioner Friedman asked a point of order: did Commissioner Furillo’s motion include all three documents? Commissioner Furillo amended the motion to include all documents.

**ADOPTED**: AYES – 3

Commissioner Friedman stated the reason for his abstention is that the Fire Chief is not present and that Chief Deputy Palacios stated he did not agree to the waiver.

Chief Armando Hogan, recently detailed as Community Liaison Officer (CLO), commented there is no media blackout. The issues in contention were related to the Department releasing personal protected health information. If the media wanted information on a structure fire, it was provided. If media wanted information on an extrication, the Department had to be mindful of not providing the hospital destination, mindful of not getting into specific injuries, and mindful of not providing the age and gender because that is protected health information. Chief Hogan stated he was in the CLO previously as the Public Information Officer (PIO) and understands the relationship with the media; we are not blacking out the media.

President Hudley-Hayes commented it was her understanding that the March 23 memorandum was the clarifying memorandum that was used in providing information to the media. Deputy City Attorney Jackson stated prior to the written memo, the City Attorney’s Office, as is their role with the Department, is to advise them as they seek advice. Especially with respect to clarification of the law and HIPAA, experts in the City Attorney’s Office have been working in conjunction with the Department’s Privacy Officer to help the Department understand their legal obligations under HIPAA for the past year. Deputy City Attorney Jackson confirmed this is not new and it has been to the Commission.
Chief Hogan commented the reason his name is on two of the documents is because the CLO, is the control point for media-related CPRAs. Staff was asking those specific questions because a lot of this information predated his arrival to the CLO, and he was trying to clarify what staff could do to be as accommodating as possible with the media, however not violating federal law.

Deputy City Attorney Jackson stated that the Department has the obligation to respond to any request for information, whether the request is made formally, invoking the California Public Records Act, or informally. It is their responsibility to give the public the information requested. If it appears that the information requested violates HIPAA, the Department will seek legal advice.

Vice President Tolentino asked for confirmation that the Department is identifying all those current documents that it issues out that have impact on HIPAA, and make sure things are redacted and comply with HIPAA. Chief Deputy Palacios confirmed that is the policy.

Chief Hogan commented that after information is redacted, staff also attempts to have City Attorney review prior to release. Discussion was held regarding the Department’s CPRA request process.

President Hudley-Hayes stated the Commission needs a written report on this subject and Vice President Tolentino agreed. Discussion continued regarding various issues, i.e. response time, address. Vice President Tolentino commented that the Commission will weigh everything out when the [written] report is received.

Chief Deputy Palacios stated the Department policy will have to cover a lot of things that HIPAA impacts. President Hudley-Hayes stated that when this item comes back to the Commission, we need to understand the totality of the what he is referring to in the creation of a policy, or the change in the policy, and what is the basis for all of it.

Chief Deputy Palacios confirmed the Department has had a HIPAA policy for years. Commissioner Furillo stated that the expanded policies, which includes the standing policy on HIPAA, is what the Commission would like brought back as soon as possible; Chief Deputy Palacios stated yes. Vice President Tolentino requested a deadline be placed on this item. Chief Deputy Palacios suggested the May 15, 2012 meeting. Ms. Gómez confirmed the Board report deadline to the Board is May 7.

Public Comment
Dr. Williams commented two votes were taken before public comment. [He again commented on the Significant Incident Summary – BFC 12-051 from the March 20, 2012 Board meeting.] He asked if the Department does have an existing HIPAA policy, does that include the fire responses? He has done about 150 successful PRA requests and redacting is common. The easiest way is give the nearest cross-street intersection or the block number, just cancel out the last two digits of any address. Where is this HIPAA policy and how does it apply to all incident reports, emergency medical responses and emergency fire responses?

6. NEW BUSINESS – CONSENT ITEMS
   Recommendation: That the Board approves the report and recommendations.
   ACTION: CALLED SPECIAL.
B. [BFC 12-054] – Corrective Action Summary – Notice of Discharge, Suspension, or Probationary Termination reports filed with the Board of Fire Commissioners – February 17 through March 19, 2012
Recommendation: Receive and file.
ACTION: RECEIVED AND FILED.

MOTION (Furillo/Tolentino): That the Board receive and file 6.B.
ADOPTED: AYES – 4

7. ITEMS CALLED SPECIAL
Recommendation: That the Board approves the report and recommendations.
ACTION: WITHDRAWN

President Hudley-Hayes stated the amount for this item is over the $5,000 threshold so it needs both the Board’s approval and Council approval. It is also not a donation; it is actually a grant. Additionally, on the bottom of the Foundation Grant Request Form the bottom states “see attachment” and the attachment is not included.

President Hudley-Hayes added this was once again an item that was done [attended] prior to receiving Board approval. Chief Deputy Palacios confirmed withdrawing the report. President Hudley-Hayes wanted it to make it clear that this was the last time she was doing this. Vice President Tolentino agreed and added that a process is there for the Commission to review and approve.

Deputy City Attorney Jackson stated for purposes of the Administrative Code, this item is still a donation that the Commission is in charge of accepting and City Council approves since it is over the $5,000 amount. The Recommendation must indicate, additionally after acceptance by the Commission, that it has to go forward to City Council because of the amount.

8. REQUEST FOR FUTURE AGENDA ITEMS

Ms. Gómez stated those items for future meetings, such as the HIPPA report, will be noted in the Minutes.

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

Chief Deputy Palacios identified Battalion Chief Richard Rideout who had been detailed to the Employee Relations Office, and because of Fire Chief Cummings’ absence, he recommended holding the item over until the next 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.

No closed session was held to consider this item because the Fire Chief was not present.

11. ADJOURNMENT
The meeting adjourned at 11:27 a.m.

ATTEST BY:

GENETHIA HUDLEY-HAYES  LETICIA GOMEZ
President  Commission Executive Assistant II

Date: January 15, 2013

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.