

**CITY OF LOS ANGELES
BOARD OF FIRE COMMISSIONERS
MINUTES
TUESDAY, OCTOBER 16, 2012**

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The Regular Meeting of the Board of Fire Commissioners convened at 9:31 a.m. in the Fire Commission Meeting Room, City Hall East, 200 N. Main Street, Room 1820, Los Angeles.

- **ROLL CALL**

Present: Vice President Casimiro U. Tolentino
Commissioner Steven R. Fazio
Commissioner Andrew Friedman
Fire Chief Brian L. Cummings
Assistant City Attorney Carlos De La Guerra [arrived at 9:34 a.m.]

Absent: President Genethia Hudley-Hayes
Commissioner Alan J. Skobin

- **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. And especially keep in your thoughts today retired Assistant Chief Paul Orduna who passed away about a week ago.

Vice President Tolentino commented that President Hudley-Hayes had intended to attend, but is not feeling well today.

1. **COMMISSION COMMENT**

None.

2. **REPORT OF THE FIRE CHIEF**

- Announcements/Meetings/Events
- Significant Incidents/Activities

Fire Chief Cummings highlighted the changes in current staffing levels and call load from 2008 to this fiscal year during the period of July to August. Current staffing has been reduced 11.2% - from 1,071 to 951 daily on-duty staffing. The call load has increased by 11.1% from 91,372 calls to 102,729 – an average of 1,000 calls a day.

Fire Chief Cummings reported attending the Urban Fire Forum where he spoke regarding Fire Service Based Emergency Medical Service. Fire departments are discussing this in light of the Affordable Health Care Act on the horizon and the potential revenue. Fire Chief also commented on the Calendar of Events provided; that he will be traveling to attend a memorial for retired Assistant Chief Paul Orduna; and will be attending the Los Angeles Area Fire Chiefs Annual Convention.

Commissioner Friedman commended the Department on two activities he attended with Fire Chief Cummings: 1) Fire Station 61 BBQ, 2) LAFD and LAPD members honored by Councilmember Mitch Englander. Commissioner Fazio also attended this event.

Commissioner Fazio stated he also attended a Disaster Preparedness meeting in Chatsworth with Fire Chief Cummings. The CERT Program is working hard on making sure they prepare everybody for inevitable occurrences. Commissioner Fazio requested a CERT presentation at a future Commission

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meeting. Fire Chief Cummings concurred and said a presentation could be brought to Commission in November.

Vice President Tolentino noted that Assistant City Attorney Carlos De La Guerra arrived at 9:34 a.m.

3. PRESENTATIONS

None.

4. CONSENT AGENDA ITEMS

- A. [BFC 12-164] – Acceptance of Grant Funds to continue the Development and Maintenance of the National Urban Search and Rescue Response System Resources – Urban Search and Rescue Task Force FY 2012 Readiness Cooperative Agreement
Recommendation: That the Board approve the report and recommendations.
ACTION: APPROVED.

Vice President Tolentino commented it seems it is difficult to get participation; nobody else bid on some of these contracts.

Mr. Bill Jones, Contracts and Grants Section, stated the grants contracts go through a different process. Grants that are under the Grant Guidance and a separate City Attorney, Steven Hong, handles those agreements. These agreements, the medical cache, are ones where we have partnered with the hospital to ensure there is a rotation of the medicines to avoid expiration. A lot of hospitals will not engage in that process, i.e. rotation of medicines. Basically, these are specialized agreements.

MOTION (Friedman/Fazio): That the Board approve the report and recommendations.
ADOPTED: AYES – 3 (Absent: Hudley-Hayes, Skobin)

- B. [BFC 12-168] – Corrective Action Summary – Notice of Discharge, Suspension, or Probationary Termination reports filed with the Board of Fire Commissioners for the period of September 25 through October 2, 2012.
Recommendation: Receive and file.
ACTION: RECEIVED AND FILED.

MOTION (Friedman/Fazio): That the Board receive and file the report.
ADOPTED: AYES – 3 (Absent: Hudley-Hayes, Skobin)

5. REGULAR AGENDA ITEMS

- A. Verbal report by Department on the disposition of LAFD matters considered by or referred to City Council/Committees during the period of October 2 through October 16, 2012.

Assistant Chief John Vidovich reported on the following matters:

Public hearing to be held in City Council relative to an ordinance allowing the City to recover its actual cost for providing fire clearance safety inspection services to daycare centers and other institutional occupancies. Hearing will be held on October 19, 2012.

At the October 9 City Council meeting, Council approved modifying the 2009 State Homeland Security Grant Program by reallocating cost savings, increasing the grant award and extending

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the grant term; transferring funds of up to \$50,490 to reimburse the Department for HazMat equipment purchases.

At the October 12 Public Safety meeting, the Department presented a verbal report relative to the status of implementation of FIRESTATLA, data capture analysis and the Department response times and dispatch protocols. The Department also reported to the Public Safety Committee on recommendations for implementing a false alarm fee that would provide cost recovery of resources associated with responding with recurring false alarms. The Department reported on the status of the Department's Revolving Training Fund for Fiscal Year 2010-11.

B. Verbal update by Department and Commission Liaison relative to the Information and Data Analysis (IDA) Task Force.

Assistant Chief Pat Butler, Special Operations Division, commented that he had provided an update to the Public Safety Committee on Friday. Assistant Chief Butler stated the Task Force had submitted a draft report which contains four broad areas: 1) CAD, 2) Training and Education, 3) Synchronization of the various agencies that work with our data, and 4) Technology. The second track is the implementation of FIRESTATLA; the goal is to put forth a strategy on implementation of FIRESTATLA by December and develop a public access website. Staff will report back in November.

Vice President Tolentino asked what the timelines are regarding this item. Assistant Chief Butler stated the draft report will be finalized and go to full Commission next month, and the timelines for implementation in December will lay out the strategy of how to rollout FIRESTATLA.

Fire Chief Cummings added staff will be reporting response time data, broken down by districts, by the second meeting in November to the Commission, and by the end of this year we will have a good strategy for that public interface which will be the first piece.

Assistant Chief Butler added that all components are being tested. He acknowledged all the participants involved in the Task Force.

Commissioner Steven Fazio commended the staff, participants involved in the Task Force, and Commissioner Skobin on the project and inquired regarding the report to the Public Safety Committee. Assistant Chief Butler commented that they have a strategy for FIRESTATLA. A second piece is that we are able to report information by district and community, and the third piece is we reach out to the men and women of the Fire Department throughout the organization for input. Therefore, we will follow-up with an additional broadcast to the field on our Information Portal for input.

C. Verbal update by Department and Commission Liaison relative to Inspector vacancies in the Fire Prevention Bureau.

Fire Marshal Mark Stormes provided vacancy information for the Bureau, including tracking the history to the last promotion for Fire Inspectors, which was in December 2008:

- Sworn Personnel – down 21%
- Civilian Staff – down 26%
- Combined total average of 24.5%

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Vice President Tolentino asked what are the numbers, what is 21%? Fire Marshal Stormes responded at 21% we are down 15 vacancies and had eliminated 22 positions over the last three budget cycles. Since the initial start of the budget process, 22 positions had been eliminated and the Department is currently carrying 15. In the civilian ranks we lost 12 positions that were eliminated and are currently carrying the one Fire Prevention Engineer IV vacancy that is in the Managed Hiring Process at this point. Staff is working with the Personnel Department to get the Inspector I's list moving to start filling it.

Fire Marshal Stormes thanked Commissioner Fazio for his interest, and added that his primary concern is in the CUPA Program. We are down 42% on staffing and they were at 65% of their completion for last year. We have brought in v-hours and staffing to try to get caught up for last year. The other area of concern is the Brush Clearance Unit. With the expansion of the Very High Fire Severity Zone we brought in 47,000 additional parcels. Over the last three years, we were able to only cut one position from that area, but at the initial staffing level of 132,000 parcels for the 13 Inspectors, they were at about 10,000 brush parcels a piece. With the reduction of the 1 position, over the last year, they are now at 16,000 parcels each and are about 90 days behind schedule.

Fire Marshal Stormes stated he also had concern in the area of Schools and Churches where they detailed one person to support the Film Unit. When the Spot Check Program was initiated they had about 5,000 (estimate) inspections, but we are currently at 14,000 annually – nearly triple the number of films are being processed with the same staff that was designed for 5,000. With one person detailed from Schools and Churches, that unit is down 30% in staffing. They have 4,000 schools, and so each Inspector is responsible for nearly 800 schools. In the Institutions Unit, we are down 20% in staffing.

Vice President Tolentino asked if these are all authorized positions and they only had to go through Managed Hiring. Fire Marshal Stormes stated yes, and CUPA is 100% fee-supported and the Brush Clearance Unit is 100% fee supported. Both programs are completely self-funded and still suffering because of the inability to move forward with getting inspectors on board at this time.

Commissioner Fazio commented he had heard that there are an increased number of construction projects that are in the queue between Fire and Building & Safety; how does that work, are we delaying construction projects? Fire Marshal Stormes responded the target in the Plan Check Process is 4-6 weeks to get a plan out; currently, it is 6-8 weeks. The one Fire Prevention Engineer position is designed specifically to do plan check processes. The Department has also been work closely with Building & Safety, and they are up significantly in the construction projects coming forward. We have been told there are 10 high-rise buildings that are ready to walk in and put the plans on the door; a high rise building is a very significant building for staff.

Commissioner Fazio asked if there is an expedited method by which a contractor involved with a big project can [proceed]. Fire Marshal Stormes responded that there is an expedited process where they pay to have special handling done after hours or on weekends and staff is currently providing that service. At this point, we can only allow one hour per customer that comes into Plan Check. If that project cannot be handled and approved in one hour, it gets moved to the back room.

Commissioner Fazio commented that one of the problems in the City is unemployment and we are in the way a bit at times. Fire Marshal Stormes responded saying staff is running as fast as possible to keep up and Chief Kerbrat is working on a plan for moving a Plan Checker from

Underground Tanks to the Plan Check Process on a flex-staff basis. We need to workout the details of that being funding under the CUPA program because that was one of the criticisms of the audit – places where staff was doing double-duty and being paid out of the CUPA funding.

Commissioner Fazio inquired regarding the status of the Farmer's Field Project. He understood that there are five new high-rises that are going to be imbedded in that project. Fire Marshal Stormes responded that when the Farmer's Field goes the rumor is that there are five high-rise hotels that are going to come in at the same time; the impact will be significant. We do have the option to hire back using v-funds if they are available. We are short on v-funds at this time and could make a proposal to add either Resolution Authorities or add to our staffing, but with the current budget process the likelihood of that is not good. We are still involved in the Case Management Program, and have been in initial negotiations with AEG relative to hiring a full-time Inspector for the couple of years that they anticipate being in the building process for the Farmer's Field, but at this point those negotiations have stalled. Commissioner Fazio said make sure that is with their successor as well.

Fire Marshal Stormes responded that it has worked well in the past, i.e. the Tom Bradley Terminal Building brought on-site inspectors that never left the site and it was beneficial to the program.

- D. [BFC 12-165] – Proposed Revisions to the Discrimination Prevention Policy Handbook
Recommendation: That the Board approve the report and recommendations.

Ms. Maria Aslan, EEO Coordinator, provided a brief overview of the report, including how staff reached the proposal submitted, what they considered, what is new in the handbook, the goals and also the revisions. Prior to beginning the presentation, she reviewed what the 2006 Action Plan dictated that the Department would have an EEO Unit that is independent from the chain of command, responsible for all EEO investigations, policies, training Department members in EEO-related issues, use complaint tracking information to maximize recognition of trends and practice solutions to reach equitable conclusions. These items were taken into consideration in creating the new handbook.

Items considered for the handbook: trends in the Department as they were documented in the Complaint Tracking System (CTS); the changing roles of the managers, officers and supervisors as they were no longer required to do the investigative process; statements or claims made by members involved in the investigative *Skelly* or Board of Rights processes; and challenges in the distribution of EEO-related materials. We also looked at the basis of complaints filed by members with outside agencies such as the DFEH, or the EEOC, the information gathered during EEOC mediation proceedings, and the resulting settlements and conciliation agreements.

What is new: for the first time the handbook contains recommendations from your first EEO Unit with investigative responsibilities; it clarifies the Fire Commission's ability to accept complaints; it explains the Professional Standard Division's (PSD) actual authority when it comes to determining whether or not something should be investigated; it includes the Complaint Tracking System, the current version of the handbook predates the implementation of CTS by approximately one month; and it provides clearer direction for managers, officers and supervisors who are faced with having to address such a complaint. It also provides updated descriptions for other related City offices that work in concert with PSD when they reach a point where there is such a complaint, and it includes the Lactation Accommodation Policy, which is the newest policy related to potential harassment. PSD has updated the handbook to include Fire Department-specific terminology (i.e. use of the term "member", "SOD", "chain of

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command”), recommends the elimination of seldom used forms, and has significantly revised Appendixes to assist members.

Goals: to fulfill the elements of the Fire Commission’s 2006 Audit Action Plan; to incorporate the Department trends and actual processes into the contents of the handbook; to eliminate surprises and unrealistic expectations on behalf of the complainants; wanted to clarify and update the roles and responsibilities of Fire Department members at all ranks; ensure the revisions are relevant and current; make it easily interpreted and applied; and also have it contain familiar language and terminology.

Commissioner Friedman asked if on the chart PSD is under the Commission. Ms. Aslan responded that PSD is under the Fire Chief’s office. Commissioner Friedman referenced page 3 of the Board report, and stated he would be much more comfortable by saying that the Commission, through PSD, has the investigative responsibility, or the Commission through the Chief through the PSD. He reads that the proposed revision explains that the Commission does not have investigating responsibility. Just like saying that the Commission does not have the responsibility to put out fires, of course they do not put out fires, but he thinks that the Commission still has, through the Chief or through PSD, the responsibility.

Ms. Aslan responded that it could be reworded to explain that PSD performs investigations on behalf of the Commission. In including that language the goal was to try to eliminate any expectation on behalf of staff and members who believe that there is another party within the Department that is going to perform an investigation on their behalf. They are trying to overcome some of the misunderstandings because of the changes from when there was no functioning EEO Unit and members were coming to the Commission’s EEO staff to seek guidance. Staff can come to the Commission to express workplace concerns, or what is occurring to you when you have interacted with our Department members, and the Commission will route that concern to the appropriate parties in order for them to be investigated. Commissioner Friedman agreed with Ms. Aslan but stated that the current language seems to indicate that the Commission is abdicating this responsibility altogether. The Commission is not giving up this responsibility, but the Commission through PSD would ultimately be responsible.

Vice President Tolentino agreed with Commissioner Friedman and suggested staff work with the Commission’s Independent Assessor, Mr. Stephen Miller, on the language that will clarify at least those kinds of responsibilities that the Commission carries out.

Discussion was held regarding the portion of the handbook which was in response to the Almeida Conciliation Agreement, including the requirements (member confirmation), the need for email addresses and the initial cost of \$160,000, making a user-friendly handbook, and the removal of distinct questioning process for sexual harassment complaints.

Vice President Tolentino stated that as the Commission is at a bare minimum today, he requested that this item be tabled in order that Commissioners Hudley-Hayes and Skobin have an opportunity to weigh in. He proceeded to provide staff his comments regarding the handbook: page 60 - reference under the confidentiality area regarding HIPAA; page 30 – paramour term; and page 11 – hazing, working through EEOC to inquire if a more summarized document would suffice.

Commissioner Steve Fazio and Fire Chief Cummings commended Ms. Aslan for her work and expertise.

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- E. [BFC 12-166] – CUPA Permit Fee Recovery – Improvement Plan
Recommendation: That the Board approve the report and recommendations.
ACTION: APPROVED.

Fire Marshal Stormes reported this report is the second piece of ordinance legislation that has come before the Commission; the other is the development of the Administrative Enforcement Order (AEO) process. This is a process to attempt to address the significant backlog of IOUs and unpaid permit fees by approximately 1,300 of our 8,900 businesses that are within the CUPA Program. The intent is similar to what is done in Brush Clearance: hearing officers are used and notices to constituents of permits that are past due, which will allow unpaid permit fees to be sent to the primary collection agency of NCO, and the secondary collection agencies. The collection rate in CUPA is approximately 12%. That process is mirrored after at the Brush Unit, which averages about 50% recovery of what goes to the tax liens. This becomes an indirect asset lien which means it will be put onto the property tax bill for the property owner. The second phase will be the use of a stop order and delinquency notices have been sent out. When the \$4.5 million backlog is cleaned up, they will move to the stop order for anyone that is in violation of state and local ordinance by not having a valid permit until they become current with their permit process. Basically, this is tool necessary for the AEO process to be effective when it is fully approved and implemented.

Discussion was held regarding the current dollar amount of uncollected fees, types of fees, agencies involved, two primary issues of the CUPA Audit, estimate of average amount owed by a business, age of outstanding fees, property owners not aware their renters are in violation, etc.

MOTION (Fazio/Friedman): That the Board approve the report and recommendations.
ADOPTED: AYES – 3 (Absent: Hudley-Hayes, Skobin)

- F. [BFC 12-167] – Proposed Amendments to City Charter Section 1060 Entitled “Disciplinary Procedures for the Fire Department”
Recommendation: That the Board approve the report and recommendations.

PUBLIC COMMENT: Mr. Mike McOsker, United Firefighters of Los Angeles City (UFLAC), urged the Commission to disapprove the report as the Department has the obligation to bargain on proposed changes to wages, hours and working conditions even if those involve changes to the Charter. There is a streamlined impasse procedure involving Charter changes. The Department has been bargaining with UFLAC and there has not been a lot of success at the table, they are far apart and near an impasse but no impasse has been declared yet. Their position is that bargaining has not been completed yet.

Vice President Tolentino asked if there are items in the report that Mr. McOsker is not disputing. Mr. McOsker responded there are 1-2 that they would not dispute, i.e. keeping member on the payroll, for 30 days, while waiting for a Board of Rights. UFLAC does not agree with 95% of the report; at this point there are three things on which they disagree.

Fire Chief Cummings commented that the intent of the report before the Commission is to obtain Commission direction and counsel on which items, if any, they would like staff to move forward, and the next step would be to meet with labor as they move forward. There was a report we moved forward earlier in the year, with other Charter changes, that we are in the process of meeting with labor on and this [report] has some further changes.

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Vice President Tolentino asked if the City Attorney had a comment. Mr. Carlos De La Guerra commented he is assuming that the Department has consulted with the City Attorney's Office on these issues and therefore, the Department's position is an informed report based on the conversation with their office.

Commissioner Friedman asked for comment regarding the impasse which has not been declared. Fire Chief Cummings reiterated this report is not being taken to City Council following the meeting; the Department is seeking guidance from the Commission in order to meet with labor and ultimately take it to the City Council.

Commissioner Fazio asked for clarification regarding the sequential order. Fire Chief Cummings responded this would be where the Commission would approve which items would be taken forward, and staff will report on what comes out of the meeting with labor and what actually is being reported to Public Safety Committee. The next report will be a Receive and File.

Mr. Paul Hayashida, Chief Special Investigator, PSD, clarified that the entire package before the Commission has not been vetted through the City Attorney's Office. One of the requests in the beginning of the report is to have the Commission authorize PSD to send it to the City Attorney. Mr. Hayashida continued, commenting that the presentation had incorporated some background for Commissioners Fazio and Skobin.

Mr. Hayashida proceeded with the PowerPoint presentation, which included some of the following highlights:

- The right environment and the role of discipline.
- People are our greatest asset; members who embrace the operating principles, core values and service statements of the Department.
- Moving to create the right environment where formal discipline is the last and least used.
- HRDC/Personnel Committee invited the Department to propose a plan involving Alternative Discipline and an update will be provided to the full Commission in November.
- The continued need for traditional discipline; Charter changes in three separate areas have already been proposed to the Commission and the one discussed today are proposed amendments to the City Charter.
- Reasons why the City Charter should be amended.
- Firefighter Bill of Rights conflicts with City Charter.
- Requested the Commission's review and approval of recommendations, City Attorney review of approved recommendations, thereafter discussion with the unions and ultimately to be sent to City Council.
- Statute of limitations and case load.
- Concurrent criminal investigation/parallel investigations.

Mr. Hayashida summarized the remainder of the Board report submitted.

Ms. Leticia Gómez asked for clarification regarding Recommendation (3), page 2 of Board Report.

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MOTION (Friedman/Fazio): That the Board approve the report and recommendations, striking Recommendation (3), and adding subject to consultation with the union, and subject to the input from the City Attorney.

ADOPTED: AYES – 3 (Absent: Hudley-Hayes, Skobin)

6. PUBLIC COMMENT PERIOD

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

8. 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.

B. Public Employee Performance Evaluation. Discussion and possible Board action on annual evaluation. Government Code Section 54957.

1. Fire Chief

C. Conference with Legal Counsel pursuant to Government Code Section 54956.9(a) – To discuss pending litigation of the following cases:

Robinson v. City of Los Angeles – Case No. BC427150, B230078
Brenda Lee v. City of Los Angeles – Case No. BC336783, B202865
Miller & Rueda v. City of Los Angeles – Case No. BC 416479
EEOC Claim – Charge Nos. 340-2006-01090 and 340-2006-00470

ACTION: All items were tabled.

ADJOURNMENT

The meeting adjourned at 11:06 a.m.

ATTEST BY:

CASIMIRO U. TOLENTINO
Vice President

LETICIA GOMEZ
Commission Executive Assistant II

Date: December 5, 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.