

CITY OF LOS ANGELES
BOARD OF FIRE COMMISSIONERS
MINUTES
TUESDAY, OCTOBER 2, 2012

DRAFT

The Regular Meeting of the Board of Fire Commissioners convened at 9:38 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 Steven Fazio
Fire Chief Brian Cummings
Assistant City Attorney Carlos De La Guerra

Absent: Commissioner Andrew Friedman
Commissioner Alan 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 for LAFD Crew 3 Cadet Ryan Kirby who lost his life in an off-duty motorcycle accident.

1. **ITEMS NOTICED FOR PUBLIC HEARING**

- A. [BFC 12-138] – Proposal to Charge Fees for Fire Life Safety Inspection of Industrial and Commercial Buildings – proposed fee:
1. Approve the proposed Industrial and Commercial Inspection Fee of \$440 per building (two and a half hours at the proposed Inspector hourly rate of \$176 per hour).
 2. Subject to the approval of the City Council and Mayor, request that the City Council instruct the City Attorney to draft revisions to the Los Angeles Municipal Code (L.A.M.C.), Chapter 5, Article 7, to create an Industrial and Commercial Fire Life Safety Section including provisions for the collection of fees and for the regular review and modification of the fees based on verifiable costs to the City.
(Please refer to report for complete details.)

ACTION: APPROVED.

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

ADOPTED: AYES - 3 (Absent: Friedman, Skobin)

2. **COMMISSION COMMENTS**

- A. Discussion and possible action regarding return to regular meeting start time of 9:00 a.m.

President Hudley-Hayes noted that the Labor-Management Committee does not need a complete two hours prior to each Commission meeting. Therefore, the request is to change the meeting start time back to 9:00 a.m. beginning with the November meeting.

MOTION (Tolentino/Fazio): That the Board move the start time back to 9:00 a.m.

ADOPTED: AYES - 3 (Absent: Friedman, Skobin)

- B. Report from the Fire Commission HRDC/Personnel Committee [Tolentino/Hudley-Hayes].

Vice President Tolentino updated the Board on the various issues discussed and reports the Committee considered and reviewed at the September 28, 2012 HRDC/Personnel Committee meeting:

- Staff provided a preliminary discussion about discipline philosophy and consideration of alternative discipline strategies to modify and correct behavior in lieu of a punitive action.
- There was a discussion about the challenges and consideration of alternative discipline approaches which would hopefully modify a member's behavior without the need for punitive action.
- There was a discussion of challenges; the lack of permanent PSD staffing that has resulted in a backlog of both hearings and investigations, excessive time to complete investigations.
- The perception of members that PSD and our disciplinary process are unfair and how this perception causes ongoing conflict with the various unions.
- Problems stemming from the fact that we address some disciplinary issues but do not address the underlying simmering issues.
- A longer discussion about alternatives to discipline strategies, such as mediation, education-based discipline and pre-conditional withdrawal approaches.
- The Committee directed the PSD to come up with a recommendation for which approach they would like to pursue and to provide a full report to the Board.
- Updates to the Discrimination Prevention Policy Handbook – essentially to reconcile the different changes that we have been making these past years and reconcile it with the Rules and Regulations that have also been concurrently redrafting. The suggested changes will be forwarded and a full report will come to the Board.
- The Committee received an amended Rules and Regulations that reflected reconciliation and organizational changes, elimination of the ambiguities, and a revised Preamble of the Fire Chief's message. A more complete revised Rules and Regulations will be drafted for the full Board's consideration.

President Hudley-Hayes confirmed all items will come to the full Commission.

3. REPORT OF THE FIRE CHIEF

A. Announcements/Meetings/Events

Fire Chief Cummings referenced the Calendar of Events provided, and highlighted the following events: October is Fire Safety Month, Halloween Safety Month, Domestic Violence Awareness Month and Breast Cancer Awareness Month; October 7-13 – Fire Prevention Week; October 12 – Space Shuttle Endeavour; October 13 – Annual LAFD Memorial Ceremony.

Chief Cummings stated from Thursday through Saturday he would be traveling to Quincy, Massachusetts, to participate in the National Fire Protection Association's Urban Fire Forum; he will be speaking on fire service based EMS. On October 7 he will travel to Emmetsburg for the National Fallen Firefighters Memorial where Firefighter Glenn Allen will be honored.

Chief Cummings stated that the Department is beginning the budget preparation process by looking at the priorities for the Department in maintaining resources and filling vacant positions; several related reports will coming to the Commission (administrative staffing levels, staffing levels at Shops, gaps in coverage).

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Chief Cummings introduced Ms. June Gibson as the new Fire Administrator. He said her wealth of knowledge includes experience in the CLA, CAO, City Council and City government in general.

Fire Administrator Gibson stated she had had the privilege of having worked with Commissioner Tolentino and President Hudley-Hayes on the creation of PSD, and over the years with President Hudley-Hayes on the ballot measure for the Independent Assessor position as well as a variety of other Fire Department issues. She stated she is aware the Department is facing several challenges and she is hoping that her background will be an opportunity for the Department to take advantage of the experience that she has had and also the experience of having worked with the Mayor's Office and the City Council. She stated that she has also had the privilege of being able to work with Chief Cummings' entire management staff and she has a lot of confidence in their ability to be able to meet those challenges. She stated that she has also had the great pleasure of working with Assistant City Attorney Carlos De La Guerra, primarily with the Police Department on the Consent Decree.

President Hudley-Hayes stated she has had the privilege of not just working with Ms. Gibson, but also being mentored by Ms. Gibson through the creation of the language for the Independent Assessor; working on the organizational and structural changes within the Department. Commissioner Tolentino and she attended a meeting with Ms. Gibson and she was able to see her vast knowledge, her consistent advice and how she is able to marry-up all of the kinds of City resources. She has also helped President Hudley-Hayes understand how the City works, and how we can best work in collaboration with other City departments, the Mayor's Office, and the CAO's office. President Hudley-Hayes stated that she is absolutely positive that Ms. Gibson coming to the Fire Department is an excellent thing for the Department, and for the Commission, as we all try to work together for the betterment of the Department; she is extraordinarily pleased that Ms. Gibson has joined the LAFD staff. Ms. Gibson has a cool head, is very consistent and does not seem to be overly alarmed about things, which does not dampen her passion for public safety and the Fire Department, but these are all qualities that are needed, in addition to the skill set that she brings in understanding the CAO's office, the CLA's office and also the City Council. President Hudley-Hayes stated she looks forward to working with Ms. Gibson so that the Commission can function to its optimum capacity.

Chief Cummings thanked Mr. Sal Martinez for essentially working two positions for the past two years, which have been the most challenging financial and staffing times for LAFD. President Hudley-Hayes also thanked Mr. Martinez on behalf of the Commission for his commitment.

B. Significant Incidents/Activities:

1. [BFC 12-140] - Significant Incident Summary report for the period of August 20 through August 26, 2012.
ACTION: RECEIVED AND FILED.
2. [BFC 12-141] - Significant Incident Summary report for the period of August 27 through September 2, 2012.
ACTION: RECEIVED AND FILED.
3. [BFC 12-144] - Significant Incident Summary report for the period of September 3 through September 9, 2012.
ACTION: RECEIVED AND FILED.

4. [BFC 12-162] – September 2012 Brush Fire Report
ACTION: RECEIVED AND FILED.

Deputy Chief Mario Rueda commented on BFC 12-162 and the series of brush fires that occurred over the weekend of September 14. He summarized the Incident Summary portion of the Board report which included the Getty Incident, Rustic Incident and the Foothill Incident. He emphasized some of the deployment model challenges they are experiencing: vacancies in our Battalion Chief ranks in the field lead to an overtime Chief working in the West Los Angeles area that day, driving himself to the incident (he had well over 50-60 firefighters with aircraft in the air) and is basically working alone without an Emergency Incident Technician. It continues to be a significant challenge for Battalion Chiefs to try to manage these significant incidents by themselves for a period of time. This was a non-augmentation day so we were not pre-deployed.

Chief Rueda stated as a result of Friday's fire, the Fire Chief directed that we augment staffing for Saturday and we did have augmented staffing when the Rustic Incident occurred. He stated there are a number of days where it is just hot and we use a lot of staffing in these fires. Friday was not a day that would have been predicted to be brush fire weather; it was not a red flag day and not flagged by any of the weather service warnings for us to be augmenting. He added that the special duty staff with their take home vehicles were tremendous support to the incident commander, Chief Kwame Cooper.

Discussion was held regarding how many times in the past year staffing has been augmented (approximately 12). The general public does not understand what happens when we close fire station resources (i.e. the 15 fire station districts that did not have a fire resource); these are the complexities that LAFD faces.

President Hudley-Hayes stated the Commission needs an informational report that looks at what happens when you have 15 company closures. What does that do to the rest of the City? She commended Chief Rueda in the work that he does in keeping our apparatus operational.

Chief Cummings stated staff can prepare a report on it; we were at that critical level for reserve apparatus and they quickly put together a plan and brought people in overtime to make sure that we could build that fleet back up. But if we do lose mechanics to DWP, we do not have enough staff now to keep up with the current workload. We need to fill the vacant positions, and if we lose staff we need to get those through the Managed Hiring Committee as soon as possible or we will have firefighters on-duty without apparatus to respond on. President Hudley-Hayes asked that the report be very focused; we need to be able to put together what the challenges are, where they all come from and how that then in fact impacts our basic job which is public safety. She added it also has to deal with the safety of our own people; if we continue to overload our own folk then you have stress there, there is not enough recovery time, and that also compromises public safety. With respect to the take-home vehicles, when looking at that Home-Garaged Vehicle Audit, if you fold in who takes home these vehicles the LAFD is totally different from most City departments with a need for constant staffing.

Commissioner Fazio stated he agreed with President Hudley-Hayes' concerns; he thanked the members of the Department that were dealing with all of the incidents which were occurring simultaneously.

President Hudley-Hayes stated that in the informational report she would also like to see what it would take for us to get back on our apparatus maintenance cycle and what it would take in order to catch up with our apparatus needs. Chief Cummings stated that Chief Varela's shop will handle the item. President Hudley-Hayes also requested information on the home garaging; Chief Cummings stated the home garaging item would be a separate report. President Hudley-Hayes stated that we cannot sustain a cut [to the Department budget].

Chief Cummings stated our current deployment relies on that augmentation but there are some challenges: there is no funding in our budget for augmenting; each augmentation costs \$70,000 to \$100,000 for additional resources; there are only 30 task force stations, previously there were 47 task force stations; vacancies in our Battalion Chief ranks highlights difficulty with the Managed Hiring Committee; and there are not enough Emergency Incident Technicians (EIT). Chief Cummings stated none of the augmentation was included in our budget; we were directed to report back on when an augmentation occurred and they would look at finding the funding for reimbursement. The amount the Department initially requested was \$3.1 million but it was not approved.

PUBLIC COMMENT: Mr. Pat McOsker, United Firefighters of Los Angeles City, stated that augmentation only works so well and it does not replace having on-duty firefighters ready. About two months ago the wind was blowing and it was hot, and the Chief made the right decision to staff up the next day. There were not enough firefighters available to work so we only staffed up one of the 10 engine companies that captains were authorized to hire for. He referenced a significant incident, which occurred last Wednesday, involving a traffic collision on Calfia in the valley that killed one, or both, parents. Engine 93 was first on scene and they estimated it was at least 10 minutes until the first-in truck arrived (truck 39 from 73's quarters). He described the details of the incident and stated that the City Council needs to follow through on what they asked us for which is a five-year plan to restore resources to the Fire Department.

MOTION (Tolentino/Fazio): That the Board receive and file Items 3.B. 1-4.
ADOPTED: AYES – 3 (Absent: Friedman, Skobin)

4. PRESENTATIONS

Recognition of Captain Jaime Moore

Chief Cummings commended Captain Moore regarding an off-duty encounter where he saved someone's life; the person was in full arrest and Captain Moore performed CPR, activated the EMS system and when help arrived the person was breathing again. Chief Cummings presented Captain Moore with a Certificate of Recognition on behalf of the Department; Captain Moore thanked everyone.

5. CONSENT AGENDA ITEMS

- A. [BFC 12-153] – Acceptance of Grant funds for the 2011 Assistance for Firefighters Grant Program
ACTION: APPROVED.
- B. [BFC 12-136 R] – Fiscal Year 2012-2013 Annual Organization Chart
ACTION: APPROVED.

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- C. [BFC 12-163] – Organizational Chart Summary
ACTION: RECEIVED AND FILED.
- D. [BFC 12-152] – FY 2012-13 Monthly Financial Status Report: First Financial Report
ACTION: RECEIVED AND FILED.
- E. [BFC 12-154] – Agreement between the City of Los Angeles and Kaiser Foundation Health Plan for Provision of Targeted-Destination Ambulance Services
ACTION: APPROVED.
- F. [BFC 12-157] – Corrective Action Summary – Notice of Discharge, Suspension, or Probationary Termination reports filed with the Board of Fire Commissioners for the period of July 26 through September 24, 2012.
ACTION: RECEIVED AND FILED.
- G. [BFC 12-158] – Write-Off of Uncollectible LAFD Charges for Services of Fire Safety Officers, Construction Plan Checking, High Rise Inspection Fees, Inspection Restitution, and Non-Compliance Inspection Fees Each Valued Less Than \$5000 from Fiscal Years 2007-08 through 2008-09
ACTION: APPROVED.
- H. [BFC 12-159] – Request for Funding for the Development of a New Application to Support the Fire Life Safety Inspection Fee
ACTION: WITHDRAWN
- I. [BFC 12-161] – Write-Off of Uncollectible LAFD Emergency Ambulance Service Charges Each Valued Less Than \$5,000 for Fiscal Years 2004-05 to 2010-11
ACTION: APPROVED.

Chief Cummings requested that Item 5.H. be withdrawn and stated it would come back to the Commission.

MOTION (Tolentino/Fazio): That the Board withdraw Item 5.H. and accept the remaining consent agenda items.

ADOPTED: AYES – 3 (Absent: Friedman, Skobin)

6. 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 September 5 through October 2, 2012.

Chief of Staff John Vidovich reported on the following matters:

At the September 14 City Council meeting, the Council approved the LAFD's FY 2012-13 Annual Costs of Special Services Fee Adjustment contained in the LAFD's report to the Board of Fire Commissioners dated May 29, 2012 and approved at the July 17, 2012 meeting. On September 25, the Council approved the donation of one surplus ambulance to Oxnard College. The Controller's Audit on Response Times was moved to the Audits & Governmental Efficiency Committee and has not yet been scheduled for a hearing.

At the September 28 Public Safety Committee meeting, the City Attorney's report and ordinance establishing pre-inspection and final clearance fees for daycare facilities, increasing fees for

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residential care facilities and adding provisions for updating fees was approved. The timeline for this approval was: 1) January 3, 2011 - LAFD submitted a report to the Board of Fire Commissioners (BFC), 2) February 15 - the BFC approved the report, 3) June 28, 2011 - the City Council approved the recommendations from the Department, 4) August 16, 2012 - the City Attorney prepared a draft ordinance, 5) September 28 - the Public Safety Committee approved the report from the City Attorney. Please note 20 months passed from when the initial report was submitted to the BFC to when it was ultimately approved by the Public Safety Committee.

In regard to the Commission's request to be updated on motions, the following motions were introduced during the current reporting period:

Councilmembers Perry and Parks: motion instructing the Department to report on the 911 dispatch protocols for assisting patients suffering from cardiac arrest and to identify potential improvements for enabling patients to receive more effective CPR treatment. Dr. Eckstein will discuss the measures the Department is currently taking to address these concerns and a written report will subsequently come to the Commission.

Councilmembers Zine and Buscaino: motion instructing the Department to report back to the Public Safety Committee on the process of accepting funds and donations from the organizations seeking to assist local fire stations. Chief Armando Hogan is in the process of preparing this report and it will be brought to the Commission.

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

Chief Cummings stated the IDA Task Force has progressed along their primary objective of looking at how the data was captured and reported. Their biggest challenge was that we have a Computer Aided Dispatch (CAD) System that was not designed to capture data; it was designed to rapidly dispatch the correct resource to the correct location. They have gone back and have a high degree of confidence in working with RAND, USC and First Watch that the numbers they have for response times now are accurate. A full report will be provided on what they have uncovered, completed and how they will be reporting response times; that report should come to the Commission at the first meeting in November. Thereafter, the first report on actual response times, broken down by districts, will come at the second Commission meeting in November. Their next task will be to move retrospectively through the data captured to correct response times and to look at the process for reporting out to the public what their response times are in a real-time basis.

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

Fire Marshal Mark Stormes stated relative to the vacant positions, he asked Chief Frazier and staff to look at the last three years in regard to where we are today; staff reviewed annual reports for the past 30 years. Fire fatalities have gone down 68% and fire incidents have gone down 58%. That is a direct reflection on the incidents that drove code compliance, inspections and those incidents were the Poney fire, the Dorothy May fire, the Burlington fire, and the First Interstate fire. In 2008, the FPB consisted of 223 personnel (civilian and uniform); currently they are at 180 personnel. This is the third year of budget cuts and we lost 17.3% of our civilian staff to ERIP. To date we have lost 19.3% of our staffing; 12% were eliminations as of 2010-11. Currently we sit at 19.3% vacancies that we are unable to fill and by July 2013, we will be 21.5% vacancy. He has shared his concerns with the Chief Cummings and with Commissioner Fazio. With the current 15 vacancies and the 5 anticipated vacancies, we are struggling to maintain our

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minimums. The Industrial Commercial has slipped, by design, from 12 months to 18 months; of the 20 positions we will have in July 2013, 6 are fully fee-supported positions that are still vacant and 5 are partially fee supported.

Discussion was held regarding concerns of being able to fill vacancies through the Managed Hiring Committee; concerns regarding the 30 years of progress that has been made is being stressed; FPB does not have the ability to do constant staffing; concerns that programs and testing systems will be put [at risk]; backlog in Plan Check and 10 high rise buildings may be submitting plans in the near future; the current turnaround time for Plan Check is 4-6 weeks; FPB also supports the 14,000 film projects; we are seeing staff that is off with injuries; staff being lost to DROP; since 2008 positions continue to be lost. Commissioner Fazio thanked Chief Stormes and Chief Frazier for their assistance. Commissioner Fazio stressed the importance of the linkage to public safety and the City: the work done in FPB ultimately saves lives, time and helps reallocate resources where they are needed. Commissioner Fazio stated he could not understand why positions are left vacant when they are fee-supported.

President Hudley-Hayes stated if these are fee-supported positions, what is the problem? Chief Stormes stated fully fee-supported means that we recover the cost of operations the next year. Mr. Martinez clarified that the problem is that we have a deficit (in terms of our City budget), and have to see the budget in the totality of the needs of the Department. Chief Cummings stated we have a certain number of inspectors in FPB and the Fire Marshal has to prioritize where they are to handle fire safety.

Discussion was held regarding serious concerns with shortages in the FPB. President Hudley-Hayes asked Chief Stormes to consider if there is any action that can be taken by the Commission to shed light on the issues and be as assertive as possible. Commissioner Fazio stated he would like to submit a report, with the Fire Chief's assistance, on the numerous FPB issues. Chief Cummings commented the FPB is the business face of the Department and provided numerous examples.

PUBLIC COMMENT: Mr. McOsler stated that the CAO and the Managed Hiring Committee are reluctant to give fee-supported positions because they would rather have 150 people collecting all those fees rather than 180. We are not getting all of the inspections done now; brush inspectors are each responsible for 8,000 parcels. Inspections cannot be done properly and on time. It is time to be brutally honest with elected officials; we need to develop a revenue raising proposal for Councilmembers.

President Hudley-Hayes stated we do not have the civilian staff that helps move items along. She stressed the importance of getting everything done in a comprehensive way. She addressed Fire Administrator Gibson and stated the Commission needed her expertise in this matter.

D. [BFC 12-132] – Report Concerning State Bar Complaint and Request to Release Redacted Documents

Mr. Stephen Miller, Independent Assessor, stated that he had filed a complaint against some attorneys in the City Attorney's Office and he apologized to the vast majority of attorneys who work in the City Attorney's Office who work tirelessly to advance the best interests of the public that they serve every day. Everyone is having a hard time with this budget, LAFD as well as the City Attorney's Office. Unfortunately, the conduct of a few left him no alternative to the path he is currently on at this point. The issue that is presented today is whether the Fire Commission

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should release documents to the State Bar and the public, after they have been redacted to protect the privacy of Fire Department employees.

Mr. Miller stated that before we saw the City Attorney's advice concerning the legal authority of both the Fire Commission and the Independent Assessor to access specific personnel records, the City Attorney's Office advised the Fire Commission there was no way the advice could be discussed in public session, that the public had a right to observe the Commission discuss the advice and that it was the Commission's privilege to waive or not waive. That advice is set forth in an audio recording of the August 17, 2010 Fire Commission meeting. The minutes and another audio recording of the September 21, 2010 Fire Commission meeting disclose that the City Attorney's Office suggested that a subcommittee of the Commission be appointed to discuss the advice in private in order to maintain the confidentiality of the advice to the extent that the Commission agreed confidentiality needed to be maintained. This advice, that the Fire Commission holds the privilege and that it is the Fire Commission that decides the extent to which confidentiality is maintained, is supported by a formal City Attorney Opinion dated May 17, 1996, which says that where there is no litigation and no threat of litigation, attorney-client communications involving a single department may be under the control of the department head. The Commission is the department head. All of the documents sought to be released involve the Fire Department and none of the documents involve litigation.

Mr. Miller referenced page 12 of the report provided, which lists the documents he proceeded to discuss. He asked what is the best evidence that the City Attorney's Office does not believe there is a real threat of litigation and stated that Charter Section 245 permits the City Council to veto or overturn actions taken by this Fire Commission. On August 7, 2012, the Fire Commission ordered that he be granted access to confidential personnel records; he received confidential personnel information as a direct result of that Fire Commission order. If there was any merit to the City Attorney's August 23 legal advice and claim that the City is exposed to a lawsuit by the Independent Assessor accessing individual, confidential personnel information relating to Fire Department employees, the City Attorney would have made a strong and timely recommendation to the Council to veto the Commission's August 7, 2012 order.

Mr. Miller urged the Commission to grant this request. The Commission's action is necessary for the public and the State Bar to determine and understand the facts involved in a dispute that has lasted for more than two years. This dispute is preventing the Commission from exercising its full power and authority as the head of the Fire Department. On Friday, the Commission's HRDC/Personnel Committee was prevented from meeting in closed session to discuss personnel matters which they had been doing for years preceding this dispute. If the City Attorney believes the Commission is wrong in ordering the release of these documents, the City Attorney can simply ask the City Council to overturn, or veto, the Fire Commission's action pursuant to Charter Section 245.

Discussion was held regarding whether redaction would sufficiently protect employee privacy; whether the documents requested involved litigation in any way; etc.

PUBLIC COMMENT: Mr. McOsker stated that in reference to the letter that was sent by UFLAC, he clarified that they want the law followed regarding privacy. They fought hard for a Firefighter Bill of Rights and just want it followed. If they think the law has been violated, then they will have litigation in that case.

Assistant City Attorney Carlos De La Guerra stated it was not necessary, or appropriate for open session, for him to discuss the contents of Mr. Miller's reports and why he agrees or disagrees because that is the subject of a State Bar complaint, which he understands has been

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closed at this point and Mr. Miller is going to appeal. However, what the Commission is being asked to do is to waive the attorney-client privilege. That privilege belongs to the client and under the Charter the client is the municipal corporation, the City, not individual employees or individual departments. He stated that he is familiar with the advice from 1996 and it is not exactly as Mr. Miller said. It basically says that attorney-client communications involving a single Department or office may be under the control of the department head and it depends on the circumstances; circumstances which are different here for a lot of reasons, among them Mr. Miller's own complaint which he filed in his individual capacity. Therefore, you do not have the authority to act on this report because that privilege which you are being asked to waive belongs to the City, which normally acts through the Council and the Mayor.

Vice President Tolentino stated that 1996 was pre-Charter days; the Charter currently says we are the head of the department. He stated that we have the responsibility as a Commission to head this department and take whatever action we need to do our oversight responsibilities, and protect not only the interests of the Department, but also the interests of the public.

Assistant City Attorney De La Guerra stated the interests of the City, which is through the City Council, include considerations of liability, expense, and other things that this department head, this Commission, may not consider, and that is why the privilege belongs to the client – City corporation.

Vice President Tolentino asked what the next step is, if we do take the recommended step. Assistant City Attorney De La Guerra stated it is basically null and void; any action taken that is inconsistent with the Charter is null. Vice President Tolentino asked what is inconsistent with the Charter? Assistant City Attorney De La Guerra stated what I just told you: that you do not have that privilege, that privilege belongs to the client and the client is the municipal corporation which is the City.

Vice President Tolentino asked what about what we agreed to back in August, to direct the Independent Assessor to have access to the documents that you are now disputing. Assistant City Attorney De La Guerra stated I am not disputing that. The issue of his access is separate and apart from the waiver of the privilege so that the documents could be provided to the State Bar because Mr. Miller believes that they will help his case somehow. I am talking about disclosing confidential communications. President Hudley-Hayes stated if the Commission agrees with the recommendation and moves forward with the release of the documents, he is saying that it is null and void and they are not going to be released because the privilege is not held by the head of one City department, but it is held by the municipality of the City itself. What happens if we move forward? I am not understanding what the next step is.

Assistant City Attorney De La Guerra stated that if the Commission adopts that recommendation that you would essentially direct the Department to take an action and we would advise the Department not to take that action. President Hudley-Hayes asked where would it go from there? Assistant City Attorney De La Guerra stated he was not sure because we have never ended up here. I have advised the Police Commission for 10 years and this issue came up once a long time ago, and I told them that that privilege belongs to City Council. It went to City Council and they voted not to release the document.

President Hudley-Hayes stated she wanted to accept this recommendation and then leave it up to whatever that next step is. Vice President Tolentino said allow the process to take place. President Hudley-Hayes stated yes, she would like the process to take place.

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Assistant City Attorney De La Guerra stated do not confuse the issues; do not confuse the access issue.

Commissioner Fazio commented that the only thing he cared about as a Commissioner is to allow for the Commission to do its work in a manner which is consistent with what goes on in the Police Department. To be able to audit things to make sure that things are being done in accordance with the way in which the head of the Department, i.e. the Commission, would want to see things continue to go. Assistant City Attorney De La Guerra stated that is a different issue. Commissioner Fazio stated that in regard to this other issue, he would have to yield to his colleagues who have a better understanding of it since it has been going on for two years and he has been here for only eight weeks; he will go along with their recommendation.

Vice President Tolentino stated he is convinced that the privacy of our employees is protected with respect to this recommendation and there is not a single disagreement with what Mr. McOsker said. That is paramount and it is important that we follow that.

ACTION: APPROVED.

MOTION (Tolentino/Fazio): That the Board accept the recommendation of this Board report concerning the State Bar complaint and request the release redacted documents.

APOPTED: AYES – 3 (Absent: Friedman, Skobin)

- E. [BFC 12-142] – CFFJAC Training Agreement Audit Response (BFC 12-129)

ACTION: RECEIVED AND FILED.

Battalion Chief Corey Rose, In-Service Training Bureau, stated the California Firefighter Joint Apprenticeship Committee (CFFJAC) was established approximately 25 years ago and is designed to get monies, through training hours, to support apprenticeship programs in the fire service; he proceeded to describe the details of the process.

Chief Rose stated that an audit was performed to look at the clarity, transparency and actually how we report and do business with this program. He thanked Mr. McOsker, Fire Administrator Gibson, Mr. Martinez and the Controller's Office regarding discussions of this program; the Controller's Office allowed us an extension in order to get this report to the Fire Commission before moving on with the audit.

Chief Rose stated the report noted 13 recommendations; he proceeded to summarize the report provided and highlighted Recommendation No. 5 on page 2. He stated this is the only recommendation we disagreed with. He highlighted Recommendation No. 10 and stated a spending plan is needed to move monies from Sacramento to the City's 40K Account.

Discussion was held regarding Finding Nos. 2, 4 and 8; UFLAC's need to be able to verify every expenditure made; Fire Chief Cummings disagreement with the Controller's request that we use this money for something other than training.

- G. [BFC 12-160] – Los Angeles County, Department of Health Services (DHS) – 2012 Air Ambulance Audit Results – **Taken out of turn.**

ACTION: RECEIVED AND FILED.

Assistant Chief Greg Reynar, EMS Commander, stated the report is an acknowledgement of the good work that our pilots, paramedics and support staff at Air Operations are doing on a daily basis. We are audited annually by the County of Los Angeles EMS agency; periodically they will have a consultant from the Commission on Accreditation of Aerial Medical Transport

Systems provide us a consultation. We participated in the audit and the consultation with the nationally-recognized consultant; the report notes the consultant scored us 747 out of 838.

Chief Reynar stated that the Department received action items upon completion of the audit; some of the items that are part of the consultation are not in the Department's control. One example is some of the requirements for mechanics to actually complete their maintenance of helicopters and have systems in place to check tools.

- F. [BFC 12-143] – Audit and Assessment of Fire Department Litigation (BFC 12-074)
ACTION: RECEIVED AND FILED.

Chief Deputy Daren Palacios stated that the Independent Assessor's Office performed an audit on the Department's litigation and the audit found that there was a need to reduce the risk of litigation, to monitor litigation once it was filed, and to improve litigation risk management practices.

Chief Palacios referenced the report provided, which listed 36 recommendations, and discussion was held regarding working with various bureaus to implement the recommendations; some have been completed, some are in process, some are meet-and-confer and other policies may take longer to implement. He stated that he could come back in 60-90 days to update the Commission.

President Hudley-Hayes asked Chief Palacios realistically how soon he could come back to the Commission? Chief Palacios stated 90 days.

MOTION (Tolentino/Fazio): That the Board receive and file 6.E., F., and G.
ADOPTED: AYES – 3 (Absent: Friedman and Skobin)

- H. Verbal report regarding Department's Home-Garaged Vehicles Policy.

Fire Chief Cummings stated that Battalion Chief Trevor Richmond would provide the update and a written report will be coming to the Commission that will include the section that President Hudley-Hayes requested regarding the explanation why the EMTs need the take-home vehicles.

Chief Richmond stated the first board report submitted by the Department reviewed the Controller's Audit (2006) and how the Department was responding to the recommendations from the Controller's audit with regard to Home-Garaged Vehicles. That report was submitted, and subsequently the Department was directed to provide answers to additional questions in an addendum, which the Department provided.

Chief Richmond stated it became clear that their report to the Commission was going to be more substantive and we embarked on a project that include our MIS Division, as well as the Department's Planning Section and other various bureaus, to come up with a management process that we could explain to the Commission on how we manage out Home-Garaged Program. The report, to be presented at the first meeting in November, will be in three parts: 1) the Department's efforts towards developing a comprehensive management program that enforces current Department policy (will demonstrate an electronic application that supervisors will be able to use to manage vehicles assigned under the home-garaged program), 2) an extensive review of the total number of home-garaged vehicles (will be coming to the Board to ask for a cut of nearly 13% of vehicles currently assigned), and 3) a look at LAPD's current home-garaged program and efforts to align some of our policies with their policies.

Commissioner Fazio asked will the report have something quantifying the actual dollar value of a 13% reduction? Chief Richmond stated we will have a rough number; light vehicles and home-garaged vehicles are lumped into one category and we do not have a way to extract the home-garaged vehicles yet.

I. Verbal report regarding EMD Protocols.

Dr. Mark Eckstein stated he would give a brief overview of our EMD Protocols; Commissioners should have received a brief one-page overview of our dispatch system. The current system has existed for about 15 years. We use an internationally recognized operation known as National Academy Emergency Dispatch; they provide software used by our emergency medical dispatchers, firefighters who receive specific training and get certified as emergency medical dispatchers, to receive and process 911 calls.

Dr. Eckstein stated that the process is very complex; more than half of our 911 calls now come in through cell phones. The first responsibility is to confirm the correct address of the incident, but call takers do not have the address because we do not have enhanced 911 for cell phones. They must also recognize the time-critical calls, dispatch the most appropriate units, get the units on the road, and make these determinations based on answers to a series of questions, which appear on a computer screen, based upon the patient's/victim's chief complaint. The next priority is for those few time-critical calls that we handle. Call takers must provide pre-arrival instructions; these are a set of scripted instructions so the caller can provide aid to the victim before we arrive. Pre-arrival instructions are most important in cardiac arrest, choking, drowning, childbirth, significant bleeding, etc.

Dr. Eckstein stated in terms of our quality improvement (QI) efforts we have had a robust quality improvement program. We have specially trained reviewers who have expertise in dispatch and are certified to review our dispatch performance. One of the metrics that has gotten some negative media scrutiny in the last month involves compliance with providing pre-arrival instruction for cardiac arrest patients; this is an effort that has been ongoing for quite some time. Dr. Eckstein stated he has been working closely with Chief McCarthy, Metropolitan Fire Communications Dispatch Center Commander, and Chief Cummings to come up with an action plan to fix the problem. We are working closely with the National Academy Emergency Dispatch as they have the lion's share of 911 centers around the world; about 4,000 dispatch centers use the same software we currently use. He said clearly we need more analysts to review calls, closer feedback for our people in terms of additional training and remediation, and we are putting together a detailed action plan to measure our improvement. Our ultimate goal is to broach the threshold set by the National Academy Emergency Dispatch; to apply for and hopefully receive accreditation as a dispatch center of excellence.

Dr. Eckstein stated the National Academy Emergency Dispatch sets minimum standards based upon the number of 911 calls that our QI staff review and that bare minimum has to be reached to even consider applying for Accreditation.

Discussion was held regarding a recent newspaper article involving this issue, the handout which Dr. Eckstein provided, and a request for a 20-30 minute complete presentation on this issue. Dr. Eckstein stated the data obtained by the L.A. Times was internal quality improvement data. He also stated our out-of-hospital survival rate for cardiac arrest has almost doubled in the last few years; that is truly remarkable and was almost buried in that article. We are putting together a plan and the Chief is supporting us with additional needs with staffing.

Vice President Tolentino commented that the American Heart Association has said our Department is superb; with our combination of our dispatch, our defibrillator program, and our response times in respect to stroke and cardiac arrest.

PUBLIC COMMENT: Mr. McOsker stated our Department is superb on these issues, but we can always do better. In this case, there is an opportunity to do better. Since our Department bought this off-the-shelf software for dispatch, I have gotten the same complaint from dispatchers that their expertise means nothing because they know a few seconds into many of these calls that they need send resources, yet when they were doing that they got in trouble and put into the discipline system for not following the long script before they hit the send button. We need enough dispatchers. There is a plan to reduce the number of on-duty dispatchers. We think the way we have it now is the best system, but we need more dispatchers around the clock on a 24-hour shift, and we need to maintain the paramedics and firefighters we have there. We also need to change the protocol so that they can use their initiative and get us on these heart attacks sooner rather than later.

Discussion was held regarding how LAFD is on a continuous quality improvement program.

J. Verbal report on consultant for Deployment Plan analysis.

Chief Cummings stated the Commission requested what was requested in the budget language regarding the \$500,000 that will be spent by the CAO. He stated the language read: Council's adoption of the 2012-13 budget includes an instruction for the CAO to prepare a request for proposal for a third-party review of the Department's deployment resources, the Constant Staffing Deployment Model, response times for fire and emergency medical services city-wide, mandatory responses, dispatch protocol (Clawson protocol), Emergency Medical Service Captains and the tenth member on the taskforce. Chief Cummings stated that the CAO is in the process of drafting an RFP; there is a draft version that is being circulated. Discussion was held regarding other spending options for the \$500,000.

7. PUBLIC COMMENT PERIOD

None.

8. ITEMS REQUIRING PUBLIC HEARING

A. [BFC 12-155] – Fire Alarm Fees – proposed fee:

1. Approve the proposal to establish an annual fire alarm registration fee and a false fire alarm penalty fee schedule.
2. Approve the Fire Alarm Registration Fee at \$34 and the Annual Fire Alarm Renewal Fee at \$24.
3. Subject to approval by the Mayor and Council, request the City Council to instruct the City Attorney to draft revisions to the Los Angeles Municipal Code (L.A.M.C.), Sections 57.122.02 and 57.122.08 relating to Fire Alarm Systems to include provisions for collection of fees and for a regular review and modification of fees.
(Please refer to report for complete details.)

The Board directed the Commission Executive Assistant to schedule a Board of Fire Commissioners public hearing and publish the required notices relative to the proposed fee enactment.

BOARD OF FIRE COMMISSIONERS
MINUTES
TUESDAY, OCTOBER 2, 2012

DRAFT

9. ADJOURNMENT

The meeting adjourned at 12:03 p.m.

ATTEST BY:

GENETHIA HUDLEY-HAYES
President

LETICIA GOMEZ
Commission Executive Assistant II

Date: February 6, 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.