

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
300 Lakeside Drive, P.O. Box 12688, Oakland, CA 94604-2888

Citizen Review Board
Minutes of the 39th Meeting
Monday, July 14, 2014

A regular meeting of the Citizen Review Board (CRB) was held on Monday, July 14, 2014, convening at 4:00 p.m. in Room 171 at the Joseph P. Bort Building, 101 Eighth Street, Oakland, California.

Members Present: Chairperson Sharon Kidd, Vice-Chairperson William White, Benjamin Douglas, Douglas Hambleton, George Perezvelez, Ken Jones, Sukari Beshears, Cydia Garrett, Les Mensinger and Darren White

BART Staff: BART Police Department (BPD) Chief Kenton Rainey, BPD Deputy Chief Jeff Jennings, BPD Lieutenants Michael Hayes and Gilbert Lopez, BPD Officers Shane Reiss and Alberto Alvarez, Independent Police Auditor Mark P. Smith, Senior Administrative Analyst Anita Grayson and BART Attorney Byron Toma

Others Present: BART Directors Robert Raburn and John McPartland, and Ron O'Dell of Safe Restraints, Inc.

Agenda items discussed:

- 1. Call to Order.**
The regular meeting was called to order at 4:05 p.m. by Ms. Kidd.
- 2. Call for Quorum.**
Sharon Kidd, William White, Douglas Hambleton, George Perezvelez, Cydia Garrett, Ken Jones and Les Mensinger were present, amounting to a quorum.
- 3. Pledge of Allegiance Recital.**
The pledge of allegiance was recited.
- 4. Public Comment on Items 5 through 12 Only.**
No public comment.
- 5. CRB Officer Elections. For Discussion and Action.**
Les Mensinger offered his name as a candidate for Vice-Chairperson. Sharon Kidd offered her name as a candidate for Chairperson. A motion to elect Ms. Kidd as Chairperson and Mr. Mensinger as Vice-Chairperson was made by Mr. Perezvelez and seconded by Mr. Jones. The motion passed unanimously, with 7 votes in favor, 0 votes against, and 0 abstentions.

- 6. Approval of Minutes of Prior Board Meeting. For Discussion and Action.**
A motion to approve the minutes of the previous board meeting was made by Mr. Mensinger and seconded by Mr. Perezvelez. The motion passed unanimously.

- 7. Chairperson's Report. For Discussion and Action.**
Ms. Kidd shared her experience at a recent Neighborhood Crime Prevention Council meeting and encouraged the CRB members to attend future meetings if possible. Ms. Kidd discussed arranging a meeting with California State Assemblyman Tom Ammiano.

Mr. Douglas entered the meeting. Mr. Darren White entered the meeting.

Mr. Darren White was introduced as the new CRB Member representing BART District 4.

No action taken.

- 8. Chief of Police's Report. For Discussion and Action.**
a. **Introduction of "The Wrap" Restraint Equipment and Associated BART Police Department Policy.**
Chief Rainey updated the CRB on BPD vacancies and new hires. Officers Reiss and Alvarez and Mr. O'Dell gave a demonstration of "The Wrap" restraint equipment and answered questions from the CRB.

Ms. Beshears entered the meeting.

No action taken.

- 9. BART Police Department Personnel Complaint Record Retention Schedule, Labor Agreements between BART, the BART Police Officers Association, and the BART Police Managers Association, and the 5-year Retention Period Required by California Penal Code Section 832.5. For Discussion and Action.**

Mr. Hambleton raised the issue of whether the BPD Personnel Complaint Record Retention Schedule complies with the California Penal Code. BART's Labor Relations Department commented, via email, on their opinion regarding this matter. Mr. Toma offered his understanding regarding this matter and indicated that the Office of the General Counsel is continuing to research it. Chief Rainey offered his understanding regarding this matter.

A motion to have the CRB Chairperson write a letter to the BART Board of Directors, the BART General Manager, and Chief Rainey indicating that the CRB makes the 4 recommendations listed in Mr. Hambleton's email to the CRB Chairperson dated 6/25/14 (with the global replacement of the term "MOU" with "CBA") was made by Mr. Hambleton and seconded by Mr. Perezvelez. The motion passed unanimously.

- 10. Motion to Consider Repeal of CRB Vote on Office of the Independent Police Auditor (OIPA) Case #13-49. For Discussion and Action. (Agenda Item #11)**
Mr. Mensinger discussed repealing the CRB's previous vote to agree with OIPA's findings and recommended corrective actions in OIPA Case #13-49. The agenda item was seconded by Mr. Jones. The motion passed with a majority vote.

A motion to extend the meeting by 30 minutes was made by Mr. Hambleton and seconded by Ms. Beshears. The motion passed unanimously.

- 11. Independent Police Auditor's Report. For Discussion and Action. (Agenda Item #10)**
a. OIPA's Monthly Report

Mr. Smith presented OIPA's Monthly Report and answered questions from the CRB.

Mr. Smith presented the finalized draft of the BPD policy that incorporates the previously-adopted Complaint Mediation Program and answered questions from the CRB prior to its implementation.

No action taken.

At 6:10 p.m., the CRB convened in closed session to address the next agenda item.

- 12. Closed Session.**
a. To Consider Public Employee Discipline/Dismissal/Release in OIPA Case #13-49.
Govt. Code §54957

During the closed session, a motion to extend the meeting for 30 minutes was made by Mr. Perezvelez and seconded by Mr. Douglas. The motion passed unanimously.

Ms. Beshears exited the meeting. Ms. Garrett exited the meeting.

The CRB reconvened in open session at approximately 7:03 p.m. Ms. Kidd reported that, during closed session, the CRB voted to accept the findings of OIPA in Case #13-49, with 7 votes in favor, 0 votes against, and 1 abstention. The CRB also voted not to accept OIPA's recommendations for corrective action, but rather to recommend retraining for each officer found to have violated BPD policy in Case #13-49, with 5 votes in favor, 0 votes against, and 3 abstentions.

- 13. General Discussion and Public Comment. Limited to 3 minutes per speaker.**

14. Adjournment.

A motion to adjourn the meeting was made by Ms. Kidd and seconded by Mr. Darren White. The motion passed unanimously. The meeting was adjourned at approximately 7:05 p.m.