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MEETING OF THE BOARD OF POLICE COMMISSIONERS
VIRTUAL MEETING
June 2nd, 2020, 6:00 PM

Pending

Remote and Virtual Access ONLY: This Board of Police Commissioners meeting will be entirely remote and virtual. There are a few ways to tune in:

1. Join via Zoom: <https://us02web.zoom.us/j/82620146550>
2. Call in for audio only: Phone number: 646-558-8656 Webinar ID: 826 2014 6550
3. CCTV YouTube Channel or on Burlington Telecom Channel 317.

<https://www.youtube.com/channel/UCJkWMLSqRNKLoyUZQiNoAcQ>

Please provide a notification to the Commission via email that you'd like to participate during public forum, by sending an email to strammell@bpdvt.org . This information will allow us to identify you and un-mute your microphone for the duration of your public comment. Emails will be accepted through the duration of the public forum. If you will be joining by phone only, please provide your phone number in the email, so that we can identify you.

AGENDA

1. Additions or Modifications to Agenda
2. Public Forum
3. Chief's Report
4. COVID-19 BPD Updates
5. Commissioners leaving the Board and Election of new Chair
6. Review: Draft of the Role of Commission in Oversight
7. Commendations
8. Commissioners Updates/Comments

9. Consent - Minutes of Previous Commission Meetings

- Regular Meeting, February 18th
- Special Meeting, May 7th

10. Next Meeting's Agenda Items

- Next meeting scheduled for June 23rd

11. Executive Session (as needed)

12. Adjournment

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BOARD OF POLICE COMMISSIONERS
MINUTES OF MEETING
TUESDAY, June 2, 2020

A meeting of the Board of Police Commissioners was held virtually via ZOOM on **Tuesday, June 2nd, 2020**. Chair Michele Asch called the meeting to order at 6:05 PM.

The following Commissioners were present: Chair Michele Asch, Commissioner Randall Harp, Commissioner Jabular Gamache, Commissioner Mark Hughes, Commissioner Yuol Herjok, Commissioner Hart, Commissioner Miles, and Youth Commissioner Landen Nipper. Also present: Chief Jennifer Morrison, Deputy Chief Jon Murad, Deputy Chief Matt Sullivan, Commission Clerk Shannon Trammell, and Assistant City Attorney Joy Hovestadt.

Additions or Modifications to Agenda

Chair Asch recommended modifying the agenda to include discussing the draft statement from the Police Commission addressing the recent events and the killing of George Floyd. Proposed inserting the discussion as an agenda item "Statement from Police Commission regarding George Floyd," after Chief's Report.

Commissioner Harp remarked, no drafts had been yet distributed to the Chief's or the Youth Commissioner. Chair Asch replied it had been distributed to the Chief's. Commission Clerk distributed drafts accordingly.

Chair Asche posed further additions or modifications to the agenda.
No other voiced additions or modifications.

Statement from Police Commission regarding George Floyd to be added to the agenda after the Chief's Report.

Public Forum:

- Anne Geroski. Lived in Burlington for about 25 years. Last weekend the protests in Burlington pointed out that racism is alive and well again even in our community. Last year the raw police camera footage of Jeremy M... showed the assault at the hands of the Burlington Police Officers, which resulted in an uproar within the community. City Council was in dismay, Police Chief on the defense. The response was: Residents spoke up, they called for justice, they asked our leaders to create change, City Council created a task force, and elected black men to the Police Commission. The City requested more research and asked 3 black men to solve the problem of racism in our community. Members of Police force, and the Interim Chief have spoken about the murder of Mr. Floyd, but that is not enough; people are still outraged. We can do better. Her Questions:
 1. What the Burlington Police are planning to do now to ensure the black members of our community are safe, are heard, and are protected?
 2. How is the police department policing itself so that the actions of some rogue members do not silence or condone inappropriate, unfair, and dangerous behavior against people of color?
 3. What beyond making pledges is going to be done?
 4. How has this Police Commission upped its game to ensure that it never again condones improper police behavior?
 5. How is it seeking out listening to the voices of its black commissioners, as well as the voices of other people of color in this community?
 6. How is this Commission going to be accountable to the citizens of this community; following the challenges that were asked?
 7. How will the Use-of-Force policies that were created by the special task force; how will they be enforced?
 8. What kind of audit are we going to take on the police now to make sure they are upholding this commitment to the people of Burlington?

- Chair Asch thanked Anne and appreciates all her questions. The Commission has, in the past, discussed making sure it gets back to people that have voiced questions to the Commission during public forums and Chair Asch thinks it is a good idea, and is something the Commission will do.
- Hollie Bosley was here for the necessity of white people to speak up and stand between black people in the active systems of oppression, which also includes the police here in Burlington. It is a civic duty to ensure that the people who are supposed to protect and serve the public are not taking advantage of their public authority. Police in the nation have historically misused this stature, which perpetuates the racist practices; and Burlington is not exempt from this. Given the issues of previous Chiefs of Police at the end of 2019, as well as BPD's stance to support repeat offending, aggressive cops; self-reported statistics are not enough to prove that these powers haven't been abused. BPD website states, between 2012 and November of 2018, more than 1/2 of the racial categorized hate crimes were being committed against black people. For the police department to actively police black people more than others, in proportion to the racially un-diverse population, that validates the narrative of hate crimes in our community from a position of power. BPD also self-reports that a white person involved in an altercation with the BPD is more likely to be recognized as under the influence or mentally unstable. She states the National Institute of Health, drug abuse and mental health do not occur at statistically significant different rates. She feels this disparity is used within the BPD documents to imply POC are policed less heavily for these offenses, when in fact proves that BPD are more likely to extend the benefit of the doubt to the white people they interact with. Hollie believes that education based on dismantling white supremacy should be mandatory for all members of the police, especially considering the KKK recruitment letters that were posted to black residents in 2015. She would like to address the Black Lives Matter of Greater Burlington petition, and the firing of Officers Bellavance, Campbell, and Corrow. She feels another step to remove the layer of distrust between the community and police would be emotional regulation training, and therapy for all officers to ensure that their fear does not surpass the importance of the safety of who they are interacting with. These should be requirements for all officers, no matter their history with excessive force.
 1. What steps are being taken to address these and other issues of racial injustice within the Burlington Police Department?
 2. Given numerous Federal lawsuits, ACLU attention, filmed aggression by cops still employed by Burlington, how are black residents supposed to believe your comments of support?
 3. How do you plan to use your authority to put pressure on the police departments to do better and act well?
 4. What steps can be taken to create a standard expectation for police to be emotionally regulated instead of acting from a place of hurt pride knowing their shield will protect them more from the community than it does to protect that community?
- Tom Proctor works for Rights and Democracy as the organizer for Chittenden County. He found out this week that the Police Department in Burlington makes up over 20% of the general budget, and is actually proposed to rise this year; including raising salaries. When administration has said that it is an austerity year, where everyone is expected to tighten their belts, but the police continue to get stronger, better equipped and subsequently more dangerous. He believes this is just one of the problems with police in the United States, even in a liberal haven, like Burlington. He believes that any department in Burlington should be facing cuts as the Burlington Police Department is. He believes we need to reduce personnel and reduce equipment budgets. He would also like to ask Chief Jennifer Morrison why Sergeant Jason Bellavance, Joseph Corrow, and Cory Campbell still have jobs at the BPD? He understands that the Chief believes we should "move on" and she believes they have been punished enough, but he believes that across the country people including those in this city have a low tolerance for officers abusing the powers and abusing the people they are sworn to protect.
- Sylvia Knight is heartbroken and outraged by what is happening around the country. As more and more black brothers and sisters are murdered by police, it is an ongoing story of violence and racism, and oppression in this country that started a long time ago, and there is heavy lifting to be done to stop this pattern of white people using violence to oppress black people and people of color.

1. How can citizens find out whether Vermont, the Police Training Council, or the Police Academy, all the use of any choke hold maneuvers? She feels this is an important opportunity to look at different ways of creating equitable and just societies.
- William Zboray wanted to talk about one of the only real experience he's had with the Burlington Police, which was last summer, when a friend of his was visiting. His friend was spending her time downtown while William worked. She had gotten news that her Grandfather has died, and was really upset, so she sat down on some steps to an apartment building to cry for a little bit. Some police confronted her and wanted to know what she was doing. He stated that she is kind of a bad tempered person, and engaged with them in a way that made them more aggressive towards her. He said the police officers pushed her up against the wall and handcuffed her and she demanded to know what she was being arrested for, but they did not tell her. She wouldn't get into the car because they wouldn't tell her what she was being arrested for, and they threatened her with mace. He said she had respiratory problems and that there was no reason they could mace her. He said because she is a pretty bad tempered person, she ended the sentence with "you dumb c***." He states that they maced her and she stopped breathing, and she went to the hospital for five hours. When she regained consciousness, they transferred her to a holding cell and didn't let her contact anyone. He states that the reason was because William was intoxicated, but they never breathalyzed her. He had no idea where she was; he had lost contact with her entirely, and had been trying to find her downtown frantically. Finally they released her from wherever they were holding her, it was somewhere in South Burlington. He said she had to walk all the way back into Downtown, by herself, while it was raining, covered in pepper spray. He states it was the worst night of his life because his friend was kidnapped and he didn't know what happened; and it was the police that did it. William is unsure how to trust police when that is the sort of experience he has with them.
 - Trish O'Kane has attended a few meetings last year. She teaches at UVM and has brought students from a course on citizenship to watch Commission meetings in the past. She appreciates that the Commission answered questions from some of her students then. She is also very upset and heartbroken at what is happening around the country and in Burlington, because last year the things that happened in the police department; on this Commission's watch. She shares the questions and concerns of the speakers that spoke before her, about what is this Commission going to do to hold themselves accountable. She is also deeply disappointed with the Police Chief's comments that were posted today in VT Digger about just moving forward and putting police brutality incidents that happened last year in the past. She thinks that shows a lack of a historical understanding that what happened last year is on the spectrum of what happened in Minneapolis. She believes that unless the history and roots of racism are looked at than not going to solve these issues and will not be able to move forward because the roots are so deep and go back hundreds of years with white supremacy. She is also disturbed by the Police Chief's comment during this meeting that the Commission is a one way street, and the refusal to answer a question, because in meetings last year when Chief del Pozo was still around, even though he left under disgraceful circumstances, she appreciated that he would answer questions. In fact, once he spent 20 minutes answering a question that she had asked. She believes that if the Commission wants to have more public participation and to be a really vital and dynamic Commission, there needs to be more public participation; that the Commission should find a mechanism to encourage give and take to answer questions when people are in a meeting, instead of having to wait.
 - Chief Morrison commented for clarification, that her remark was regarding public forum, not the agenda, the rest of the agenda, which is certainly not restrained to a one-way street. In City Council and other City meetings, a public forum is only for the voices of the public to be heard, it is not meant to act as a two-way dialog. And that is what Chief Morrison modeled her response after.
 - Chair Asch mentioned that when the Commission has not had a lot of speakers, it has had dialog; that the Commission does not model exactly after City Council meetings, that there has been back and forth but only when there has not been a lot of speakers lined up to make sure that there is time for everybody.
 - Chair Asch opened the floor to any Commissioners that may have any brief comments or questions before moving on to the Chief's report.

- Commissioner Herjok asked for further clarification from William on when the incident he mentioned took place.
 - William responded that he believes it was last summer but will look for the exact dates and email the Commissioner Clerk.
- Commissioner Gamache also had an additional question for William, but will contact him via email.
- Commissioner Hughes wanted to make comment to the general public and to those that expressed general concern of the Police Commissions' activities over this past year, the progress that has been made and the responsibility and accountability that they have to them. Commissioner Hughes shared the public's frustration with all the things that have been happening, as a Commissioner. Commissioner Hughes believes we can do better. There are challenges that the Commission has had structurally and he believes that as a Commissioner on the police Department that is not easy work. Commissioner Hughes biggest concern is that it is always going to be about transparency and accountability. His job as a Commissioner is to hold the Department accountable, to act as a conduit to the community, and to make sure that they are doing their job. The work is definitely not for the weak hearted and he is up to the challenge for. He believes we can do better and wanted to acknowledge what the community members said.

Chief's Report & COVID-19 BPD Updates

Chair Asch turned the floor over to Chief Morrison to provide updates.

- Time period: May 11th, 2020 – June 2nd, 2020
- Call volume continues to be down, approximately 15% fewer calls for service versus the same time period last year.
- No significant cases, no repeat of what was discussed at the last meeting
- There was a protest on May 30th. The Department had a short time to prepare. Mustered significant response and crowd control teams with the help of the Vermont State Police, but BPD strategically opted to not put a uniform out in the public eye, in the park. Total of three (2 BPD and 1 VSP) officers in polo shirts and khaki's clearly identified themselves as police on their shirts. Not trying to hide from anyone, but not out in full uniform in the park. The protest was, for the most part, was peaceful. There was minor property damage at One North Ave; to include a broken window, graffiti to the building, a vehicle was keyed, but the Department feels the protestors maintained excellent discipline amongst themselves and that the Department made the right decision to not invite any confrontation between uniformed officers and protestors. Total length of protest approximately 2.5 – 3 hours.
- Wanted to inform Commission and the public of the steps that have been taken in the week, or roughly 8 days since the tragic killing of Mr. George Floyd, to prevent anything like that from happening here. Chief Morrison is very confident, based on the training curriculum and very clearly communicated expectations of department policy, that that would never happen in Burlington, but will list what BPD has done in the wake of the incident in Minneapolis
 - Thursday, May 28th – put out training refresher on hand cuffing on the ground, restraint, use of neck restraint, etc. and clearly called out things that happened in the Minneapolis event that we would not do and that are not consistent with our training.
 - June 1st – memo issued with two orders and also existing policy and rules that would be directly relevant to this incident and it was circulated to the Commission
 - June 1st – Meeting with the three (3) Chiefs (Morrison, Deputy Chief Murad, and Deputy Chief Sullivan) and all six (6) Lieutenants to discuss this incident and the protest; and to keep this at the forefront of every Officers frame of mind as we go forward.
 - June 2nd – circulated a Washington Post article on the importance of culture and training, in inculcating a duty to intervene mind set. Each Lieutenant was tasked with having a meeting with their Sergeant and their direct reports to review the article and discuss. The Sergeants in turn will do the same at roll call so that all sworn personnel will have the article as a training opportunity.
 - June 2nd – Training Division directed to incorporate the duty to intervene situations into the Department's scenario based training when able to do hands on training again. In the meantime, the

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training division will seek out video based training to help officers identify situations where they should intervene.

- BPD COVID-19 Updates
 - Still trying to keep as many employees working from home as possible, but that is becoming increasingly difficult as the city is “waking up”
 - As of the last meeting, 79 COVID-19 Compliance Checks have been done. No tickets have been issued. Have had very high levels of compliance. Very few problems in the past 3.5 weeks with the COVID-19 situation.
- BPD BUDGET
 - Budget continues to be a challenge.
 - Speaker mentioned there will be a rise in the BPD budget, which is inaccurate. The Department is taking almost a \$1 Million cut to the budget in FY21. The rise in salaries are only the STEPS and COLA's that were bargained for in the collective bargaining agreements that have been in place for many years. City has determined it has the ability to honor those STEPS and COLA's, however, every member out of the bargaining units is going to have a freeze in their pay. Which equates to Sergeants, Lieutenants, Deputy Chief's, Chiefs, and Civilian Staff. Unsure where the speaker got their information, but that information was not completely accurate.
 - City's final budget is due on June 15th. She feels the Department can manage with the proposed thus far, but any more and the Department will need a contraction of services. Command has worked very hard to identify where it could save money, which has been complicated by COVID-19. Unsure if there will be an August academy in order to train officers. Cannot hire officers until it is known if they can be trained. It is not anticipated that current vacancy positions for uniform services be filled for the first half of the fiscal year, which allowed for some pretty deep cuts in the budget.
 - Correction – the Mayor did approve Steps and COLA's for supervisors up to a certain income level.
- Other Notes:
 - This will be Chief Morrison's last meeting with the Commission for a few months. The 12th of June is her last day.
 - She expresses her Thanks to the Commission and states that it certainly has been unique and pretty busy and unprecedented time; and the meetings haven't been as frequent or as in-person as she would prefer. She looks forward to working with everyone upon her return. There is a lot of ground to cover but there is a really great group here to get that work done.
- Chair Asch opened the floor to questions from Commissioners
 - Commissioner Harp requested clarification on procedure regarding the two orders that were issued on June 1st. What is the distinction between an order and Department Policy, and what is the process for implementing an order?
 - An order can be conveyed orally or in writing, and it is considered to be similar to a department rule, which is: as long as it is a lawful order (which this is a lawful order), it is considered inviolate. There is no “wiggle room” for it.
 - Policy, and procedures within policies, as you go down the chain, there becomes a little bit more latitude in each of these for deviation under certain circumstances.
 - But a Department Rule, or a Direct Order...that's it. They are concrete.
 - And the Order went into effect immediately upon issuance of the memo.
 - The Order outlined a few things that the BPD is looking forward to implementing in the updated Use-of-Force Policy, so the things that were put forth under the heading of an Order (in order to be expedient to get them out there), are things that are in the updated Use-of-Force Policy, and are anxious to roll that out in its entirety.
 - DC Murad added that the Order is significantly borrowed from the ¾ page section of Commissioner Harp's report to the City Council documenting the overall product of the Special Committee. That ¾ page section on Use-of-Force, was largely the basis for the immediate order.
 - The order is in effect and will remain in effect until it gets sub-planted by a Directive, and the Directive would have to come from the Commission.
 - Commissioner Hughes asked for clarification as to why it took seven (7) days to do it if it was an

emergency? And, why did he find out about it in the newspaper?

- Chief Morrison responded that she emailed the Commission within an hour of the Memo going out. It was sent as a group email. All other Commissioners confirmed with verbal replies that they received it.
- Chief Morrison also responded that with everything that has been going on, the Department has been extremely busy and worked straight through the weekend. It became the Monday morning thing to do. It was emailed to the Commission within an hour of being released into the Department.

Inserted Agenda Item: Review and Discuss Draft Police Commission Statement Regarding George Floyd

Chair Asch thanked Commissioner Harp for writing the draft for the Commission. Chair Asch stands behind the importance of the Police Commission making a statement, and so she had asked Commissioner Harp if he would be willing to write something for the Commission to review.

Chair Asch opened up discussion on the statement and how the Commissioners feel about making a statement?

- Commissioner Hart supports the statement and is very grateful to Commissioner Harp for putting it together. She would like to put something out there from the Commission.
- Commissioner Gamache also appreciates the statement, and believes the Commission should put out a statement but that it is just one step in many more that need to be taken to address and fix the situation.
- Commissioner Hughes has not had a chance to review the statement, and is not willing to vote on it at this point.
- Commissioner Herjok has read the statement and wanted to clarification if the statement to be made is on behalf of the police department or the police commission?
 - Chair Asch responded – on behalf of the Police Commission, not the Police Department.
- Commissioner Miles has not had a chance to review the statement and wondered if anyone could summarize the statement during the meeting.
- Commissioner Hughes stated for clarity, he is in full support of making a statement, but would like to make a statement that everyone has had the opportunity to adequately review and are able to. He doesn't feel it is appropriate to try and move forward with this particular item and Commissioner Hughes moved to table it.
- Commissioner Harp asked a procedural question. Any statement that comes from the Commission as a body does not need to be formally adopted in a meeting. If it doesn't need to be voted on in the context of a meeting, then its fine, back and forth can be done to adopt a final draft for release.
- Chair Asch agreed with Commissioner Harp about procedure and stated that timeliness is important. Request everyone read it Wednesday and provide comments/suggestions to Commissioner Harp and by Friday the 9th ready to release a statement.
 - Commissioner Harp agreed
 - Unanimous in agreement
- Commissioner Herjok requested a question of the Chief: Has the Police Department put out a statement regarding incident in Minnesota?
 - Chief Morrison responded, yes. She issued a statement on Friday, May 29th at the Mayor's Press Conference. It was thought to be important that the Mayor and the Chief be together in issuing a statement at the same time, so the Mayor chose his standing Friday afternoon Press Conference to release the Statement.

Commissioners leaving the Board and Election of a new Chair

- Chair Asch's appointment is up at the end of June. She has decided that she is not going to go for reappointment. She has been asked to join and serve on a State Board to work to provide childcare to Vermont for everyone that needs it. Chair Asch thanks the Board and members and states it has been an honor to serve. She will continue to be an advocate for the work the Commission will continue to do.
- Chair Asch's spot will be available.
- Commissioner Harp withdrew his resignation and will continue his appointment on the Police Commission Board

- Commissioner Miles has decided to run again.
- Chair Asch requested a nomination for a new Chair
 - Commissioner Hughes nominates Commissioner Gamache
 - Commissioner Hart seconded the nomination and thanked Chair Asch for her service and leadership
 - Commissioner Hughes also extended his thanks and appreciation to Chair Asch, as did Commissioner Gamache.
 - Commissioner Gamache accepted the role as Commission Chair

VOTING: Unanimous.

- Commissioner Gamache provided a few remarks.
 - He does not take being the Commission Chair lightly
 - There will be some pretty hard and uncomfortable conversations coming up, but they need to happen sooner than later. Enough is enough, people are looking to the Commission for leadership and it is our duty to deliver.

Review: Draft of the Role of the Commission in Oversight

- Chief Morrison opens the discussion by stating this document is one that she hoped would be finalized and adopted before she took leave, but a couple of meetings have been lost due to the COVID-19 crisis.
- She received really good feedback from the group
- Chief Morrison expresses that Commissioner Harp raised the issues that the Commission has talked about previously and that was: a suggestion for informing complainants that they have the ability to talk to the Police Commission and how do you operationalize that?
 - Is it on the form? The online portal? Or an actual paper form that a person might get?
 - How do we convey to citizens at the time that they make a complaint that they have the option to go directly to a Police Commissioner, but that we don't muddy the water and that they clearly understand that the Police Commission is not going to run a separate investigation?
 - Commissioner Hart requests clarification from Commissioner Harp asking if the intent is that it would be an alternative for people who aren't comfortable with the written complaint? In the past Chair Kemp, encouraged people who were uncomfortable to go directly to her. Is that what is intended? Encouraging people to reach to the Commission?
 - Commissioner Harp replies and states that this came up a little bit in the Policing Reform Committee as well. The goal was, how do we ensure that complainants feel as though their perspectives are really represented during the process. One way of doing that was to make sure that complaints were aware that the Police Commission would be happy to hear their complaints, talk with them and then introduce the information the Commissioner was given during Executive Session about how discipline would be imposed. The idea is not that the Police Commission is setting up its own separate investigation or line of inquiry, its to ensure that people feel confident that all information they feel is relevant is included in the process somehow. And the question is how do we do that?
 - Commissioner Hart summarizes, that it is almost like an advocate in the process?
 - Commissioner Harp confirms, but is uncomfortable to say that the Police Commission is the role of an advocate but that the Police Commission is ensure that all relevant information is considered.
 - Chief Morrison added that "all relevant information" is an important distinction, as opposed to advocacy because ultimately at the end of the process the Police Commission is the one that disciplinary action is appealed.
 - Commissioner Hart suggests including all the Commissioner's names and email addresses and their wards on the complaint form, so that they could decide who they'd like to reach to. In other words, they are more comfortable discussing with a male or a female, or a person of color, or someone from a certain ward.
 - Commissioner Harp acknowledges and states that all of the Commissioners information is already out there and made available and that part of the idea was insuring that people who are taking the step of wanting to lodge a complaint, at that time when they are thinking about lodging

complaint they see that they have options for people to talk with, and making that process made easy on them.

- Chair Asch asked if this is in addition to a complaint that is in writing, or is it before hand? how does that flow work.
- Commissioner Harp acknowledges that that was some of the questions Chief Morrison had and to ensure that it does not take away at all from the ordinary process of lodging a complaint. There might be a checkbox that says something like “do you also want to speak with a member of the Police Commission about this in order to pass on additional information. And if they check that box, it automatically gets sent to a member of the Commission to reach out to them directly. That is one way. For process, it could also go before a formal complaint is lodged, but the Commission should not step into the role of offering advice or advocacy that is not to say that we should not talk with people about things, Commissioner Harp is always happy and welcomes discussion with people. Commissioner Harp mentions, for him is really about making it easy for a complainant to speak with a member of the Commission the time a complaint is lodged, because he does not want to see this process take away from lodging complaints, or holding up that process in anyway. He wants to be able to see all complaints lodged, however many there are, whether the complainant chooses to speak to Commissioner or not, so that they feel there is someone hearing their concerns other than the investigatory body of the police department.
- Chief Morrison wanted thoughts on that being something like an auto-reply. When someone lodges a complaint through the portal they receive an acknowledgement that the portal has lodged that. Perhaps there is an opportunity to append that acknowledgment to include a link to the website with the names of all the Commissioners, and parallel that with complaints that come in over the phone, in person or directly through email.
 - DC Murad confirms that can be done.
 - Chief Morrison suggests this to be a good first step in making the Commission a sounding board for citizens who wish to make a complaint in parallel with not in lieu of the investigatory process inside the PD.
 - Chair Asch supports this idea.
- Commissioner Hughes mentions he sees the thought of this idea, and being conduits of the communication but he keeps going back to the authority that has been delegated to the Commission by the City Council and the responsibility the commission as is being outlined in the policy that is currently being discussed and reviewed and his concern is that, the Commission reviews citizen complaints and rises to a level that the Chief would provide that report to the Commission and the Commissioner will have a discussion about it, because at the end of the day, the only authority the Commission has in that process is to either give a thumbs up or thumbs down with what the Chief comes back with, and if there is a majority of Commissioners who disagree with her recommendation, then to approach the Mayor. He questions how does this play into that, without any authority to do anything about it?
 - Chief Morrison responds that she perceived this suggestion from Commissioner Harp as effort to be procedurally just and make sure that people have an opportunity to have a voice in a venue other than just speaking with a police investigator. She was not convinced that the suggestion was meant to mean that there was some lack of robust investigation happening inside.
 - Commissioner Hughes responded stating he hoped it was not perceived that way that is not what he intended for it to be heard as. What authority does the Commission have, and how does that play out in that process? Because that complaint hasn't been evaluated, nor has the Chief made a decision on what he or she is going to, nor has it been referred to the Commission to agree or disagree with the Chief's suggestion of appropriate discipline.
 - Commissioner Harp remarks stating that he believes the feedback and questions Commissioner Hughes has raised are perhaps two separate issues. The Commission doesn't need any special authority for speaking with members of the public if they reach out to request meeting with the Commissioner. He felt Commissioner Hughes remarks were more about the authority of the

- Commission all together and not just in this process.
 - Commissioner Hughes clarifies and says his question/comments are not about what authority the Commission has in the process, that is clearly defined, but that the only thing he was stating was that the authority becomes [inaudible]; where the Commission is normally engaged in the process is when the Chief comes to the Commission and presents the investigation. Commissioner Hughes acknowledges that he supports what Commissioner is saying.
 - Chief Morrison states her disagreement with Commissioner Hughes' characterization that Commission is not made aware of complaints until the investigation is done; stating that is inaccurate. That is not the case with any complaint she has received during her tenure as Interim Chief. She has brought all complaints forward as soon as she perceives it to be a significant issue, and has kept the Commission apprised during the process of the status of complaints. She also believes that the purpose of the Commission Oversight Document is the complaint investigation is provided to the Commission, the Chief provides input and a range of disciplinary action is offered to the Commission to approve. Because the Commission providing input on the range of disciplinary action prior to going into the last step of the process is important.
 - Commissioner Hughes suggests going line by line through the document for review to move forward in a more effective manner.
 - Everyone is in agreement.
- Addressing the policy specifically; section by section
 - Purpose Section: strike the word "certain"
 - Section #1:
 - Commissioner Hughes request clarification on the terminology "mid-level, low-level, high-level complaints" how does one know which is which?
 - Commissioner Hughes also brought the word "some [mid, low, high] level complaints" The word "some." He feel like these two items are a little grey.
 - Chief Morrison responds, that yes, it is a little grey. The main purpose in this terminology is to align the document with the collective bargaining agreement, which define what lower-level, mid-level, and high-level complaints are. One of the goals of the document was to use the same language consistently.
 - Commissioner Hughes acknowledges Chief Morrison's clarification and that it answers his concerns and that he will review the collective bargaining agreement.
 - Commissioner Harp notes minor edit, he believes it would be usual to outline and define the low, mid, and high level complaints and the fact that they are drawn from the bargaining contract.
 - Section #2:
 - Commissioner Hart brings up that in 1.b it is stated "the Deputy Chief of Administration who maintaining the spreadsheet", but that the "Chief who is going to be maintaining the written record of each complaint."
 - Chief Morrison suggested to edit to include "or designee" Generally speaking the citizen complaint process and the spreadsheet that is used to track all the complaints is maintained by the Deputy Chief. Practically speaking all three Chief's are involved depending on who and how a complaint is received, but the Deputy Chief of Administration is the one who tracks and maintains citizen complaints.
 - Resolution: Clarify 1st line of Section 2.
 - Commissioner Hughes notes that Section 4 is the definition and should be moved to the end of Section 1, last paragraph in Section 1.
 - Commissioner Harp would like to address where it talks about "the written record for complaints that involve the allegation" the second bullet point addresses identification of all witnesses, documents, etc" He requested clarification on what constitutes "identification of witnesses, documents, etc?"

- Chief Morrison responds stating if the person is a crime victim or a crime witness, department is obligated to protect their identity, if that is part of the complaint. Chief Morrison believes it would be of benefit if all Commissioners had a finger print supported background check, so that they may be in receipt of Criminal Justice Information Systems (CJIS) information. What the “identification” actually means in operational terms, needs legal counsel to weigh in. However, it might not be all the information you wish to have unless we were able to share openly with you. Which also includes names of Juveniles, whether victim or witness.
 - Joy Hovestadt states there are a lot of legal issues on what can be shared, also privacy concerns and concerns about confidentiality. There hasn’t been a conclusion on the topic, but it has in discussion.
 - Chief Morrison also offers that she believes it could be more defined and parced more if the Commissioners had finger print background checks, and Confidentiality waivers from the City Attorney’s office signed aligned with CJIS requirements and regulations. She then believes that Executive Session could be more candid and share fairly openly, provided legal counsel’s input and direction.
 - Joy Hovestadt to discuss and define a procedure of policy that can be followed on sharing information during Executive Session. Will draft some kind of request regarding information sharing during Executive Session.
 - Commissioner Harp expresses clarification that there are two separate situations that the information might need to be shared and safeguarded.
 - 1: Having the information necessary to provide useful advice at the time decisions are being made
 - 2: Having the information necessary to evaluate how well a decision was made previously.
 - Commissioner Hughes expresses approval of moving forward with providing finger prints for background checks, whatever is needed.
 - Chair Asch requests a draft procedure/direction from City Attorney’s office by next regular meeting, June 23rd.
 - Joy Hovestadt agrees
- Commissioner Hart request clarification on the last paragraph from the bottom, it starts “in addition, if the complaint involves” Is it possible to have these definitions of complaints tiered low-level, mid-level, or high-level complaints? To keep language the same?
 - Chief Morrison acknowledges, but feels that the collective bargaining agreement would explain this further and makes this paragraph easier to understand.
 - Commissioner Gamache requests a copy of the collective bargaining unit agreement
 - Chief Morrison agrees. It is a public document and available on the City website or by visiting the BPOA app and downloading it. The language in the paragraph aligns with the BPOA and Dept. Directive terminology.
- Section #3 has been covered.
 - Commissioner Harp wondered if there was a way for Commissioners to see what complaints come in in real time.
 - Chief Morrison agreed that the Dept. is looking at a way to share the spreadsheet. The online portal is not all of the complaints so giving access to just that isn’t feasible.
 - Commissioner Hart would like language consistent. The document refers to agency and department, suggestion to use one or the other consistently.
 - Commissioner Hart also mentions that language throughout uses “members” or “employees” suggestion to keep it consistent as well.
 - Chief Morrison offered her opinion that the document she initially inherited, seemed to only address the complaints against police officers, but mentioned that she does believe that is the only purpose of the Police Commission. It should be complaints against ALL employees.

- Section #4 has been moved
- Section #5
 - Commissioner Harp questions the first bullet point in section 5, where it says “further detail and access shall be provided...” He wondered since it states specifically “after” that that does not preclude the committee while the investigation is on-going.
 - Chief Morrison stated no, it does not preclude the committee. She stated that the reasoning behind the statement was that when the investigation is sent out or being investigated, the Department is provided status reports from the investigator, the Department doesn’t actually get the whole folder back with everything, videos and waivers, until the investigation is done. So, to say the Department could make certain pieces of the investigation available while it is ongoing just doesn’t make sense. But the Dep can brief the Commission about the progress of any investigation as it’s going along.
 - Commissioner Harp wondered if that needed to be clarified in that bullet point. Something to the effect of “briefings can be given as appropriate and further detail and access will be provided after the investigation is complete.”
 - Commissioner Hughes would like to address the word “report” in section 5, regarding the context of its use. Asked for clarity if the word “report” was meant to mean a written report?
 - Chief Morrison replied, no. Most often it will be verbal to the commission, a verbal update, not written report. Will clarify or adjust the word “report.”
 - Chief Morrison requested feedback on the second to last bullet in this section that Commissioner Harp had brought to her attention in previous draft edits, who makes the determination on if the PD goes outside the Department to a parallel criminal investigation. Chief Morrison will clarify it in the document, that the Chief of Police in consultation with the State’s Attorney’s office makes that determination
 - Commissioner Hughes moves to strike the last Paragraph in section 5.
 - Vote unanimous to strike last paragraph
- Section #6
 - Commissioner Harp remarked, that there has been a question in the past about how the Commission is expressing a viewpoint, whether that is informally an opinion on what discipline should be imposed or that it is put to a vote. Any vote that is taken needs to be outside of Executive Session. Regarding Section 6 about accepting the Chief’s recommendation in full or in part, the question is how is the Commission going to do that? Via formal vote?
 - Chair Asch provided further clarification from the City Attorney that said, the Commission could not take a vote on anything in Executive Session, but if the Commission came out of Executive Session the Commission cannot really take a vote because no information could be shared in order to make a vote because it is confidential information. Chair Asch’s opinion is that the Commission could not vote on disciplinary action
 - Commissioner Harp would like clarification on this process from the City Attorney, he imagines the way the voting would work would be, the content of the vote would be “does the Commission vote to accept the proposed disciplines discussed or not?” Which does not contain any information which was discussed in Executive Session. Commissioners would not be able to register about which discipline or why, but the record could reflect who was in favor and who was opposed during the meeting.
 - Chair Asch would also like clarification from the City Attorney on whether a vague vote can be held about whether the proposed discipline is being accepted or not.
 - Chief Morrison suggested a boiler plate, same generic language that is used every time, which is something like “we are back in regular session, the Commission is going to take a vote on the proposed range of disciplinary action as just expressed in Executive Session and the Commission wishes to record on record as supporting it or not supporting it.” The only problem will be is

more than one is discussed in Executive Session. They will have to be called "Item A" or "Item B"

- Chair Asch questioned Commissioner Harp why the Commission would want to do this?
 - Commissioner Harp provided response that one of the reasons would allow the Police Commission to be accountable to the public. It would be useful for the public for the Commission to say it did approve this or did not approve that; if they feel that judgment is flawed. Without a vote, it is also hard for Commissioners individually to take a stance of "I didn't vote for that," or answering the public asking "did you approve of an officer being disciplined this way or not."
- Commissioner Gamache added he has seen City Council do just that; go into Executive Session and then come out and take a vote on the material discussed in Executive Session.
 - Joy Hovestadt expressed her concern that it pertains to the information surrounding the vote.
- Commissioner Hughes requests clarification on if discipline is over, there is a final decision and closed, is it ever public?
 - Chief Morrison replied "very rarely" In years past, information that would not have ever been shared publically has been shared publically. And she believes that a balance needs to be found between accountability and reasonable transparency without creating a situation that an officer has a digital footprint that they cannot escape when they have had low level discipline.
 - Chief Morrison also poses a question from the Burlington Free Press who asked for a copy of the document in discussion.
 - Joy Hovestadt clarifies that because it is a working draft document, it is not available to the public for risk of various draft versions being available and referred to instead of the final document.
- Section #7
 - Commissioner Harp expresses concern about the language moving from the Commission, to the majority of the Commission, or individual Commission members; and the references made within the document.
 - Chief Morrison proposed the insertion of the word "Chair" into the document. The Commission expresses to the Chair, the Chair then expresses to the Mayor. The re-states that any member can consult with City Attorney's office, and then the one sentence regarding Commission member to take care with confidential information was intended to indicate whether speaking to the Mayor's office or other, that the member has an obligation to know what can and can't be shared beyond the boundaries of Executive Session.
 - Commissioner Hughes clarifies if there are any questions regarding the confidentiality of information to consult the City Attorney's office – is that what that statement means?
 - Chief Morrison responds that that is one part of it. But that it also includes inviting the Commissioners to speak with the Mayor's office or City Attorney outside of just what the Police Chief tells them, on what they can or can't disclose. Generally speaking you can seek out the City Attorney.
- Section #8
 - Chief Morrison states that this document and this section is also meant to guide the next Chief of Police who might not be familiar with what the responsibilities of the Commission are versus the Office of the Chief of Police. So this document is meant to help guide them.
 - Commissioner Hughes also states that it is meant to guide the next Police

Commissioners as well.

- Chair Asch provides clarification from Commissioner Hughes statement, Section 8 is meant to hold the Chief of Police accountable if they don't do it and Section 9 holds the Chair of the Commission accountable, to a certain extent, if they don't do it.
 - Commissioner Hughes responds, that the document doesn't hold them accountable, just explains whose responsibility it is.
- Section #9 – covered above
- Section #10
 - Commissioner Harp expresses that there was some concern in the Reform Committee that the Council be made aware specifically of misconduct, and that some mechanism be worked out on how to inform City Council of these matters. But in the meantime, ahead of the mechanism, this Section is to address that.
 - Commissioner Gamache agrees to be the liaison with City Council to discuss a further mechanism and see how they want it to work.
- Chair Asch poses a general question if the document needs language about if somehow confidential information is shared by a Commissioner, that that Commissioner is removed? Or does signing of Confidentiality agreement take care of that?
 - Joy Hovestadt adds that there is different types of confidential information regarding different laws.
 - Chair Asch questions and suggest the Commission receive training on confidential information
 - Commissioner Hughes agrees that confidential statement is the right idea, but that there are different classification issues
 - Commissioner Harp feels that a specific language is not needed because it is thoroughly addressed already in Executive Session material.
 - Joy Hovestadt offers the City Attorney's office put together a session or some material on confidential information.
 - Commissioners are in agreement and would much appreciate that.

Commendations

Chair Asch expresses appreciation for the commendations that were received over the past couple of months for the Commission to review.

Consent of Minutes from Previous Meetings

Chair Asch opens the floor for any discussion regarding the minutes from either February 18th or May 7th.

- Commissioner Hughes – May 7th, Page 5 – Contact needs to be corrected from “Contract” and asks for clarification from Chief Morrison if that expresses her view of the question posed from Commissioner Hughes at that meeting.
 - Commission Clerk, Shannon Trammell, reads the Chief's response from the May 7th meeting, page 5 that pertains to Commissioner Hughes question regarding contact tracing.
 - Chief Morrison agrees with what was read. That was her reply.
- Commissioner Hughes makes a motion to approve both minutes
 - Commissioner Harp makes second

VOTING: Commissioner Hart abstains from vote on May 7th as she was not present at the meeting, but votes for approval of the February 18th minutes; Otherwise – Unanimous

Next Meeting Agenda Items

June 23rd

- Review updated draft of the Role of Commission in Oversight
- The handling of release of information to the public that minimizes the digital footprint; mugshots, etc. (doesn't have to be at next meeting but for future meeting)
- BPOA Contract and citizen involvement in contract renewal and their concerns (doesn't have to be in next meeting but for future meeting)

- meeting but for future meeting).
- Wellness
 - President's Final report on 21st Century Policing

Commissioner Harp voices if Vice Chair remains or if a vote is needed on it.

Chair Asch checked with the City Attorney and the Vice Chair remains

- Commissioner Hughes voices approval of Vice Chair Hart remaining
- Commissioner Harp voices same approval of Vice Hart remaining

Commissioner Gamache voices that he has some questions and concerns regarding the BPD service call to Steve Martin's residence the night he was murdered and would like to discuss further in Executive Session

Executive Session

Commissioner Harp motions to move to Executive Session for the purposes of addressing citizen complaints and the potential disciplinary matter with respect to the Steve Martin case.

Motion seconded by Commissioner Hart.

VOTING: Unanimous, regular meeting adjourned at 8:24 pm.

Adjournment

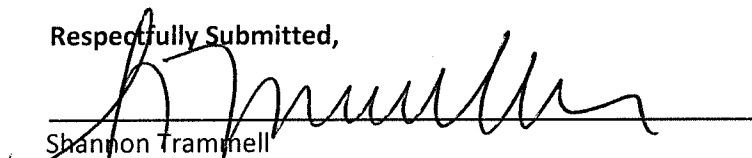
Motion by Commissioner Harp to conclude executive section, second by Commissioner Hart.

VOTING: Unanimous, regular meeting resumes at 9:05 pm

Motion by Commissioner Harp to adjourn regular meeting, second by Commissioner Hart.

VOTING: Unanimous, Adjourned at 9:05 pm

Respectfully Submitted,


Shannon Trammell
Executive Assistant to the Chief of Police
Clerk of the Police Commission

6/24/2020