



**Police Commission Meeting - Tuesday, April 26, 2022 @ 6:00 pm.
REMOTE ONLY via ZOOM
4/26/2022**

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Generated by Shannon Trammell on Friday, April 29, 2022

Members present

Jabulani Gamache, Melo Grant, Shireen Hart, Stephanie Seguino, Suzy Comerford

Not present

Yuol Herjok, Kevin Garrison

Also present

Chief Jon Murad, Deputy Chief Wade Labrecque, Shannon Trammell, Assistant City Attorney Hayley McClenahan, Police Commission Attorney Anthony Larrapino

Meeting called to order at 6:08 PM

1. Agenda

1.01 Call to Order

Meeting called to order at 6:08pm

1.02 Roll Call and Determination of Quorum

not present - Commissioner Herjok & Commission Garrison

1.03 Additions or Modifications to Agenda

(not specified)

Motion by Jabulani Gamache, second by Shireen Hart.



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Final Resolution: Motion Passes

Aye: Jabulani Gamache, Melo Grant, Shireen Hart, Stephanie Seguino, Suzy Comerford

2. Commission Actions

2.01 Approve the Minutes from the Regular Commission meeting on 03/22/2022

Approve the minutes from the regular Commission meeting on 03/22/2022 as posted

Motion by Jabulani Gamache, second by Shireen Hart.

Final Resolution: Motion Passes

Aye: Jabulani Gamache, Melo Grant, Shireen Hart, Stephanie Seguino, Suzy Comerford

3. Public Forum

3.01 The public is invited to address the Commission

no one from the public spoke

4. Commission Actions

4.01 BPC Memo in Response to Draft City Ordinance on Police Oversight and Accountability

Accept these documents to submit to City Attorney and City Council.

Motion by Stephanie Seguino, second by Suzy Comerford.

Final Resolution: Motion Passes

Aye: Jabulani Gamache, Melo Grant, Shireen Hart, Stephanie Seguino, Suzy Comerford

MEMO SUBMITTED:

To: Karen Paul, City Council President

Dan Richardson, City Attorney



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From: Jabulani Gamache and Stephanie Seguino, Co-Chairs, Burlington Police Commission

Date: April 22, 2022

Re: Burlington Police Commission Comments on Draft Ordinance on Police Commission Authority

The Burlington Police Commission (BPC) appreciates the opportunity to provide comments on the draft ordinance on BPC authority, developed in response to the City's Resolution on "Police Oversight and Accountability Authorities to Police Commission to Alter the Police Disciplinary System" (adopted 10/18/21 and signed by the Mayor 11/23/21; hereafter the "Resolution").

The Commission's detailed comments are in red in the draft ordinance. In light of our review, the Commission recommends the draft ordinance be revised and requests that the revision be resubmitted to the Commission for review and additional comment.

In addition to our detailed comments, the Commission's general comments on this draft are:

1. The ordinance should not be so detailed as to curtail the necessary flexibility of the Commission to develop and revise its own processes and procedures. Rather, broad strokes of authority should be identified in the ordinance, leaving the details to be outlined in individual policies developed by the Commission itself within the parameters of its delegated authority.
1. As a global comment on the substance of the Ordinance, the Commission reminds all stakeholders that Vermont law as interpreted by our Supreme Court and as reflected in the Charter, "envision[s] a police department created by town government, the operations of which are directed by a chief, *but which is concurrently and ultimately subject to the authority of town government.*" Turnley v. Town of Vernon, 2012 VT 69, ¶ 18 (interpreting the balance of power, under 24 V.S.A. § 1931, between a police chief and the town's legislative body (emphasis added.)). The Burlington Charter §§ 3-184, 3-185, as currently written, also reflects concurrent authority shared between the City Council and the police chief. But consistent with Vermont statute, that concurrent authority is *ultimately* exercised by the City Council, which can in turn delegate its authority to the Commission. Specifically, Section 3-185 makes clear that the "direction and control of the entire police force" is vested in the chief of police "except as...otherwise provided" in the Charter. That exception is significant because the Charter also empowers the City Council to delegate what the Supreme Court characterized as its "ultimate" authority over police department operations to the Commission. Charter § 3-184 ("The Board of Police Commissioners *shall have such authority and responsibility relating to the management of the Police Department, its services, and facilities* as may be delegated from time to time by resolution of the City Council."). The ordinance must more fully reflect the law, under which ultimate authority over the



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operations of the police department reside with the City Council and, as delegated, with the Commission. Simply put, neither Vermont law nor the Charter support a notion that the chief's authority relating to the management of the Police Department, its services, and facilities, is superior to that of the Commission acting under delegation from the City Council.

1. The ordinance's insertion of the city attorney into the work of the Commission creates a conflict of interest in many circumstances, undermining the independence that is critical to the Commission's oversight role. The ordinance should reflect that the Commission, where necessary, relies on conflict counsel for guidance.
1. The ordinance should support transparency to the full extent permitted by the law.
1. The Resolution appropriates funds for the Commission's work and expressly authorizes the Commission to "conduct investigations." That authority is enough for the Commission to conduct investigations, although future appropriations from the City will be necessary to ensure that delegated authority can be exercised meaningfully by the Commission.
1. In numerous places, this ordinance interposes itself in ways that contradicts existing legislation. The City Council sets policy which it delegates to the Commission. In that regard, this ordinance does not include several key components of the Resolution that addresses the authority of the commission. These should be incorporated:
 1. The Commission is given the authority to retain outside legal counsel to support independent review of complaints.
 2. The Commission is given authority to investigate the chief or another appropriate authority and requires that any report of findings be returned to the commission.
 3. The Commission may speak publicly about citizen complaints in accordance with personnel policies and confidentiality requirements.
 4. The Commission is allocated a budget for legal services and investigations.
 5. this authority verbatim, and must refrain from adding qualifications or restrictions on to it.
1. The Resolution mandates that, under the ordinance, the Commission "will have full and unfettered access to the Department's documentation of the incident, including officer affidavits, all witness statements, other investigative documents, and all videos." The Resolution, as well as best practices identified by NACOLE and other experts in the field, recognize that this level of Commission access is essential to the Commission's fulfillment of its mission under the Charter and State law.
2. The Commission is fully and indefinitely authorized, under the Resolution and without need of further legislation such as the Ordinance, to initiate audits, reviews, and evaluations of policies, directives, or data in regard to discipline, racial disparities, or other Commission priorities. The Ordinance should recognize



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4.02 CNA Committee Update

The most recent public safety committee board docs includes the most recent matrix. Report to be done sometime next week.

4.03 Update on Policy Review / Revision Process

The group has been getting feedback from previous complainants. The ordinance contradicts the current complaint process, may be best to hold on revising until the ordinance is finished.

5. Chief's Report

5.01 Chief's Report

The Chief presented his monthly report to the Commission and was posted to Board Docs.

6. Use of Force Incident Reporting

6.01 Use of Force Incident Report March 2022

The Commission did not ask or request any clarification or footage of any UOF Incidents.

7. Commendations

7.01 Commendations that have been received for March 2022

Commission Clerk shared the commendations that had been received in March.

8. Commissioner Updates / Comments





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8.01 Commissioner Updates / Comments

Regarding the Annual Data Report: It is important for the report to be produced and delivered in April going forward, so that Commissioners have the ability to provide input before any exiting terms.

Commissioner Comerford made comment that she is really concerned about the staffing numbers.

The Commission requested guidelines and direction on the Commissions Appellate Role defined by Charter from City Attorney's Office.

9. Other Business

None

10. Adjournment

10.01 Motion to Adjourn

meeting adjourned at 7:23pm.

Adjourn the meeting

Motion by Jabulani Gamache, second by Stephanie Seguino.

Final Resolution: Motion Passes

Aye: Jabulani Gamache, Melo Grant, Shireen Hart, Stephanie Seguino, Suzy Comerford