

MINUTES

Eugene City Council
McNutt Room—City Hall
777 Pearl Street—Eugene, Oregon

October 17, 2011
5:30 p.m.

COUNCILORS PRESENT: Betty Taylor, George Brown, Andrea Ortiz, George Poling, Mike Clark, Chris Pryor, Alan Zelenka, Pat Farr.

In the absence of Her Honor Mayor Kitty Piercy, Council President Betty Taylor called the October 17, 2011, work session of the Eugene City Council to order.

A. WORK SESSION: Eugene Civilian Review Board 2010 Annual Report

The council was joined by Civilian Review Board (CRB) Chair Tim Laue and Police Auditor Mark Gissiner. City Attorney Kathryn Brotherton was also present for the item. Mr. Laue provided an overview of the CRB's 2010 Annual Report. He reported that the CRB met ten times in 2010 and reviewed seven allegations of misconduct and four service complaints. He described the CRB's case review process and said the board generally commented on the auditor's adjudication recommendations. Mr. Laue also described the periodic training undergone by members of the CRB to ensure they understood different police policies, practices, and training approaches and briefly noted some of the board's training topics.

Mr. Laue said the board identified three areas of concern for 2010 that were passed along to Police Chief Pete Kerns and the Eugene Police Commission for follow-up and possible policy changes: 1) warrantless entries; 2) community care-taking and how it was employed in Eugene; and 3) search and seizure policies.

Mr. Laue noted the CRB's role in evaluating the Police Auditor and shared the seven dimensions board members used to evaluate Mr. Gissiner's performance. He said Mr. Gissiner's review was positive.

Mr. Laue highlighted the CRB's recommendations to the council, which included recommendations for greater openness and transparency for open and closed cases to be accomplished by summaries of closed and open cases produced by the Police Auditor; creation of a definition of "good cause" for exceptions to the six-month complaint filing deadline; Police Auditor consultation with the CRB when designating Community Impact Cases; and CRB authority to order the Police Chief to re-open a closed case. He invited questions.

Ms. Taylor solicited council questions and comments.

Ms. Ortiz determined from Mr. Laue that the CRB wanted to see the ambiguity between the charter amendment and implementing ordinance be resolved. The charter amendment establishing the CRB gave the board the authority to request a case be reopened while the implementing ordinance stated that the board could only request that community impact cases be reopened. Mr. Laue said there was no

disagreement among CRB members that the auditor had authority regarding the designation of community impact cases, although the CRB had suggested the auditor might wish to confer with board members before making that decision.

Ms. Ortiz endorsed the CRB's recommendation that "good cause" be defined and recalled that the council had repeatedly heard from an individual interested in filing a complaint past the deadline. Mr. Gissiner said he had created a definition he had not yet been able to share with the board. He characterized the issue as more of an administrative process. Speaking to the case Ms. Ortiz had referred to, Mr. Gissiner said the CRB decided against reviewing the case at this point in time, and the decision had nothing to do with the timeline for filing a complaint. Speaking to the CRB's recommendation that it be able to request that a case be reopened, Mr. Gissiner clarified that the catalyst for the request was not concern about the thoroughness or quality of an investigation but rather a concern about the case's outcome. He suggested that whether the council would want the CRB to be able to direct the chief to reopen the case mentioned by Ms. Ortiz was a separate issue. Ms. Ortiz clarified her concerns were more general in nature.

Ms. Ortiz emphasized the importance of continued vigilance in police oversight and expressed appreciation for the CRB and auditor.

Responding to a question from Mr. Brown about the type of community involvement the CRB envisioned it would be engaged in, Mr. Laue anticipated that CRB members would attend neighborhood association meetings and events such as the recent Prevention Convention. Mr. Brown endorsed such outreach as he believed it would help inform the public of the CRB's work.

Mr. Brown observed that a board member had suggested during the auditor's evaluation that the Human Rights Commission (HRC) could play a role in the complaint intake process. He asked if the CRB had discussed that possibility. Mr. Laue said yes. He recalled that there had been discussion when the oversight system was established that HRC members could serve as advocates for complainants. Those advocates would walk complainants through the process and represent the complainant's point of view. Some had also advocated for the HRC to be involved in the classification of complaints. Mr. Laue said the implementing ordinance did not provide for that and the CRB believed that task was better left to the Police Auditor. He believed the HRC could have a role in helping complainants go through the complaint process as well as help them understand the limits of the auditor's authority. Mr. Brown agreed that would be useful as there was still some public ambiguity about the role of the auditor.

Mr. Brown concurred with the recommendations of the CRB, in particular its recommendation that the board have the authority to order closed cases to be reopened. Mr. Laue said while the board could recommend to the chief that a community impact case be reopened, but for a variety of reasons, some of them legal, the board did not have that authority on closed cases. In those cases, due process had been done. He noted that the case that impelled the CRB's recommendation was the case involving the tasing of a Chinese student. A narrow board majority had voted to send the case, which was a closed case, back to Chief Kerns for further investigation.

Responding to a question from Mr. Brown about the distinction between the board's authority over community impact cases and its authority over closed cases, Mr. Laue attributed the distinction to concerns about double jeopardy for officers who had already gone through the administrative process. He said the CRB was not designed to judge the adjudication of cases but rather was designed to serve as a quality assurance and performance evaluation body.

Mr. Brown asked if the board had specific recommendations for possible ordinance revisions. Mr. Laue said he would recommend that the council reaffirm the ordinance as a statement it did not intend for the

board to have the authority to reopen closed cases. He believed the board would recommend the council consider such revisions because of the ambiguity between the charter and ordinance.

Mr. Zelenka asked Mr. Gissiner to provide the council with the charter language and ordinance language regarding the CRB's authority over closed cases.

Responding to a question from Mr. Zelenka, Mr. Laue clarified that community impact cases were not closed when they came to the board. The police chief made a preliminary determination on such cases, but the CRB commented on the case before it was closed. He said the board would not ask the chief to reopen a case because it agreed or disagreed with the adjudication, but because it was concerned there were lines of inquiry that were not followed up on or facts that were not considered. He noted that the case involving the Chinese student was not a community impact case, and that Eugene had only had such case to date.

Responding to a question from Mr. Zelenka about the language in the ordinance, City Attorney Brotherton clarified that the code was very specific about the CRB's authority over community impact cases; by negative implication, the CRB had the authority over no other cases. The CRB was asking the council to revise the code to be more explicit. Mr. Zelenka concurred with the CRB's recommendation.

Mr. Zelenka asked Mr. Gissiner to speak to the recommendation that he consult with CRB members before designating a community impact case. Mr. Gissiner indicated that his current practice was to confer with the CRB if he thought it was possible a case would be designated as a community impact case. Mr. Laue clarified that the CRB was less interested in seeing that codified than in seeing that direction reflected in the Police Auditor's policies, procedures, and operating manual. He said that the ordinance as written reflected the Police Auditor Ordinance Review Committee's recommendations.

Responding to a question from Mr. Zelenka, Mr. Gissiner said he worked with City Attorney Glenn Klein to establish a definition of "good cause" and would provide it to the council and mayor.

Responding to a question from Mr. Zelenka about the CRB's concerns regarding public transparency, Mr. Laue said current law limited the public's ability to review information that would give it more confidence that cases were thoroughly and completely investigated. He said the Attorney General had considered some changes to the Public Meetings Law that would have allowed the CRB to share information about cases where no discipline had been involved but those proposals had made no headway during the last legislative session.

Mr. Zelenka suggested the City could pursue changes to State law. City Attorney Brotherton briefly reviewed the statutes in question and concurred that statutory changes would be needed to achieve the transparency desired by the CRB.

Mr. Farr thanked Mr. Laue for his work on the CRB. He determined from Mr. Laue that he was suggesting the council reaffirm the existing ordinance to clarify the board's role for the community. Mr. Farr asked City Manager Jon Ruiz to consider the mechanics of that process.

Mr. Poling expressed concern that the board's recommendation for CRB consultation prior to Mr. Gissiner designating a case as a community impact case could delay Mr. Gissiner's investigations. He also wanted to ensure that if such consultation was codified it be clear that the board's recommendations were just that, and the auditor had authority to make a final determination. He did not support granting the board authority to reopen a closed case for the reasons mentioned by Mr. Laue.

Mr. Poling supported the creation of a definition of “good cause.” He thanked Mr. Laue and other board members for their service.

Mr. Zelenka suggested the CRB become involved in planning for the proposed Hate Crimes Conference to be sponsored by the Human Rights and Police commissions.

B. WORK SESSION:
Criminal Street Gang Presentation

The council was joined by Police Chief Pete Kerns and Detective Greg Harvey. Chief Kerns first provided a brief update on Occupy Eugene.

Chief Kerns prefaced the presentation by noting that presenter Detective Harvey was an expert in the field and had been involved in many investigations of street gang crime, including some with interstate implications. Chief Kerns said street gangs often involved people of color and street gangs in communities larger than Eugene were often race-based organizations. While that was not the case in the Eugene-Springfield area, he acknowledged many people made that assumption. He also acknowledged that people of color were disproportionately represented in local street gangs. Chief Kerns reported that the Eugene Police Department (EPD) had reached out to the Communities of Color to discuss the issue. The EPD found that those residents feared that officers would engage in racial profiling due to the assumption gangs were race-based, and they were concerned that people of color would be stereotyped. As a result, Detective Harvey was providing training to the schools, media, and a variety of other groups and staff had met with executives of the local police agencies and other service agencies to raise awareness of the issues involved with the goal of holding a summit in 2012 to produce community strategies to address local street gang crime.

Detective Harvey led the council through a PowerPoint presentation entitled *Street Gangs* that provided information on gang activity in the Eugene-Springfield metropolitan area. He emphasized the importance of community partnerships in fighting street gang activity as well as the importance of making contact with youth who might be targeted for gang membership at an early age. The presentation commenced with a video of a “jump-in” gang initiation rite that occurred in a Trainsong neighborhood park. Detective Harvey defined a gang, noted the different geographical levels at which gangs were organized, and identified national gangs represented at the local level.

Detective Harvey acknowledged gang numbers were increasing but the department was not sure why; he suggested media glorification of gang lifestyles could be a contributing factor. He stressed the youth of those being recruited and the intergenerational nature of gang membership. Detective Harvey reported that gang activity was extremely mobile and many national gang “sets” were represented locally. Frequently local gangs had a “mother chapter” in another city that provided them with direct support and stayed in touch using social media.

Detective Harvey emphasized that gang violence could affect innocent people as well as gang members because gang violence often occurred in public places. He shared a list of crimes committed by local gangs, which included prostitution, drug dealing, home invasions, assaults, bank robberies, attempted murder, and murder. Detective Harvey then shared examples of gang graffiti and encouraged residents to report graffiti.

Ms. Ortiz thanked Detective Harvey. She was very concerned about the issue of street gangs. She asked when gangs evolved from Aryan-type gangs such the Free Souls to the street gangs the EPD was now

seeing. Detective Harvey said that the Free Souls were still an active gang and such gangs presented some of the same problems as street gangs. He confirmed there were now more street gangs than Aryan-type gangs.

Mr. Farr thanked Detective Harvey for the presentation.

Responding to a question from Mr. Brown, Detective Harvey indicated that the 18th Street Gang out of Los Angeles was the largest gang represented in the metropolitan area. It was broken down into smaller subgroups. Most local gangs had 8 to 12 members, while some others had as many as 20. He confirmed, in response to a follow-up question from Mr. Brown, that the West Side Gangsters were formed in Eugene and evolved into a prison gang.

Mr. Clark expressed appreciation for the presentation and asked Chief Kerns for more information about EPD's future plans. Chief Kerns said the EPD hoped to draw on expertise from other parts of the country with the goal of discussing what would work best in Eugene. He planned to meet with representatives of Medford to discuss that city's strategy, which seemed to be working well and which involved schools, churches, police, and the Department of Youth.

Mr. Poling hoped more people had a chance to hear the presentation. He recalled that gang activity began to grow in the community during the late 1980s and early 1990s and said left unchecked, it had grown to current levels.

Ms. Ortiz expressed concern that the City organization was not already prepared to address the situation. She said when people lived in poverty and could not achieve the American dream they began to look for other ways to feel included. She believed that gangs provided that sense of inclusion for many people, including homeless youth. She said street gangs were not merely an EPD problem but a community issue, and she hoped whatever strategy the EPD developed included community involvement. She determined from Detective Harvey that the presentation was available to the public and had already been shared with several neighborhood associations.

Chief Kerns spoke of the importance of training for EPD officers to help them recognize gang signs and gang activity and work with services providers to help them recognize those things as well. It was important that officers knew what to look for so they could help contribute toward an effective strategy.

Ms. Ortiz encouraged staff to make the presentation to the Bethel School District. Chief Kerns said the department had made that contact and provided district staff with background information and discussed how the district and department could move forward together.

Responding to a question from Mr. Zelenka regarding other approaches staff used, Detective Harvey said EPD officers were working with ex-gang members to enlist their aid in reaching out to potential gang members and helping them to escape gang life.

Mr. Clark asked about gang activity in downtown. Detective Harvey said the department saw an increase in downtown gang activity in February 2011, although had been some gang-related incidents in downtown prior to that. There were also reports of street robberies committed by gang members in downtown.

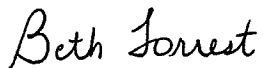
Mr. Zelenka determined from Detective Harvey that gang activity occurred throughout the community and gang gatherings frequently created problems, particularly when gang members perceived they were being disrespected by other gang members.

Ms. Taylor asked if it was dangerous for young people to wear the color red. Detective Harvey said no. He said gang colors were not the sole indicator of gang affiliation. However, it could be risky to claim one was a gang member when one was not.

Ms. Ortiz encouraged residents to report graffiti to Detective Harvey at 541-682-5174 and to report all crimes to the EPD.

Ms. Taylor adjourned the meeting at 7:05 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Beth Forrest".

Beth Forrest
City Recorder

(Recorded by Kimberly Young)