



**PUBLIC SAFETY COMMISSION
MINUTES**

**REGULAR MEETING
Monday, April 2, 2018**

The Public Safety Commission convened a meeting Monday, April 2, 2018 at City Hall 301 W. 2nd Street in Austin, Texas.

Chair, Rebecca Webber called the Board Meeting to order at 4:00p.m..

Board Members in Attendance:

Rebecca Webber, Chair	Daniela Nunez
Sam Holt	Ed Scruggs
Carol Lee	Noel Landuyt
Rebecca Gonzales	Preston Tyree
Kim Rossmo	

Brian Haley was not in attendance

Staff in Attendance:

Troy Gay, Assistant Chief, Austin Police Department
Jasper Brown, Chief of Staff, Austin/Travis County Emergency Medical Services
Richard Davis, Assistant Chief, Austin Fire Department

1. APPROVAL OF MINUTES

The minutes for the March 5, 2018 meeting were motioned for approval by Commissioner Nunez and second by Commissioner Webber. **The minutes were approved with a unanimous vote (9approved 0 disapprove).**

2. CITIZEN COMMUNICATIONS –

- **Carlos Leon** – Fight for improved public safety
- **Anthony (Tony) Marquardt** - Would like to see future agenda items for EMS added in the near future
 - Fall Asleep Prevention Program
 - EMS Interlocal with Travis County
 - EPCR Software update
 - EMS Medical Direction
 - Public Safety Committee Matrix of Performance

3. ELECTION OF CHAIR, VICE-CHAIR AND PARLIAMENTARIAN for 2018-2019

Commissioner Rebecca Webber nominated Commissioner Brian Haley for Parliamentarian and Commissioner Tyree second

Vote:

For - Unanimous (9-0) Commissioners Tyree, Rossmo, Gonzales, Lee, Webber, Nunez, Holt, Scruggs, Landuyt

Absent - 1 (Commissioner Brian Haley)

Abstain - 0

Nominations for Chair - Commissioner Rossmo nominated Commissioner Rebecca Webber and Commissioner Carol Lee second

Vote:

For - Unanimous (9-0) (Commissioners Tyree, Rossmo, Gonzales, Lee, Webber, Nunez, Holt, Scruggs, Landuyt)

Absent – 1 (Commissioner Brian Haley)

Abstain - 0

Nominations for Vice Chair – Commissioner Nunez nominated Commissioner Carol Lee and Commissioner Rebecca Webber second

Vote:

For – Unanimous (9-0) (Commissioners Tyree, Rossmo, Gonzales, Lee, Webber, Nunez, Holt, Scruggs, Landuyt)

Absent – 1 (Commissioner Brian Haley)

Abstain - 0

4. Timeline, process, and opportunities for public input regarding hiring a permanent Police Monitor, Fire Chief, and Police Chief

Assistant City Manager Rey Arellano presented City Manager Cronk's thoughts/position on a timeline, process and community input regarding hiring for three important positions for the City of Austin. The positions are, Austin Fire Chief, Police Chief and Police Monitor. Per ACM Arellano, City Manager Cronk has shared:

- There is increased interest concerning the Police Chief position
- There will be a process to fulfill these three positions (referenced above)
- Each Position is unique and he wants to hear the voices of communities as he moves forward.

The Fire Chief position will go out for recruitment

- I was asked to go ahead and start working with HR to identify a recruiter and that is just starting
- Normal timeline is approximately 3-6months for a finalist for Fire Department position to be identified depending on what the consult comes up with (candidates/finalists)
- Chief Kerr retirement date is July 1, 2018, but she will be leaving prior to that date
- In the interim City Manager Cronk plans to appoint Chief of Staff Tom Dodds as Fire Chief

The Police Monitor position

- Somewhat influx right now with there not being a contract with the Austin Police Association
- City of Austin is fortunate to find and appoint Farah Muscadin on an interim basis
- Farah is performing very well despite being constrained by State Chapter 143
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The Chief of Police

- Clearly there is a lot of interest in this position
- Lots of thoughts and comments from citizens and city council on this position
- March 21, 2018 City Manager, Cronk made a statement as to how he is going to proceed in regards
- Comments received from, make it a direct appointment, to do a national recruitment
- City Manager will take all comments from the community, stakeholders, city departments and city council into consideration before making a judgement on the process he will use.

Assistant City Manager Arellano asked for the Public Safety Commission's questions as well as their feedback concerning these positions. There were comments, questions and feedback from the board.

Commissioner Scruggs shared it was important that citizens feel that their input is of value and not that a decision had already been made concerning the police chief position. He asked who the City Manager was consulting for setting up the process for the Fire Chief. How is the police contract going to impact the search for a new Police Chief?

Commissioner Nunez – emphasized the importance of the community having a say in who our next Police Chief will be. It is so important to hear from the community and not rush to set up a process, because the new Chief of Police will have power to put in place strategies and policies that will have an impact for many years to come. **Commissioner Webber** felt it would be a disservice to Chief Manley without any opportunity for all stakeholders to weigh in. **Commissioner Scruggs** – can't think of a better process than hearing from both sides on where we are in the community.

Dr. Rossmo- If the City manager decides to do a National Search how long would that take and what would it cost. ACM Arellano commented he would have to get back with him on the cost.

Commissioner Holt – a lot of us support Manley, but I think we should still go through the process.

Commissioner Lee – transparency in hiring of and vetting of key candidates is very important.

Commissioner Tyree – I can see us going through the process and spending thousands and thousands of dollars to come back and hire Chief Manley.

Citizen signed up to speak:**Chris Harris, with Grass Roots Leadership**

His comments were he was attending the meeting to advocate for a deep process in hiring a police chief regardless of the cost.. What will the police department look like in ten years? These are the discussions we need to be having right now? There are lots of change across the country in how police work looks. There is a racial divide in Austin, Texas and if we were to move forward without any type of process on these events is to ignore the Black and Brown Communities.

5. Recommendation that Council nominate a Community Advocate to Austin Regional Intelligence Center Privacy Policy Advisory Committee -

Commissioner Webber introduces this item and directed the board to the two handouts she distributed. The handouts included information from Greg Foster, former ARIC (Austin Regional Intelligence Center Privacy Policy Advisory Committee) appointee, along with responsive information from Assistant Chief Troy Gay and a letter from Peter Steffensen expressing his interest in being appointed to the open seat on the ARIC Privacy Policy Advisory Committee.

Commissioner Webber shared her intention to sponsor a recommendation to council that someone be appointed immediately to the AIRC Committee and that it actually be Mr. Peter Steffensen since he has taken the initiative to inquire about the committee and share his resume. **Commissioner Rossmo** was asked to share history on the beginning of ARIC Committee.

- 2009 the position/committee was established shortly before we (Public Safety Commission) came into being
- We (PSC) did not appoint Greg Foster, he reported to us on a regular basis, but was an appointee of the government (City Council).

Commissioner Holt agreed with Rossmo's account on the history of ARIC committee's beginning. **Rossmo** agreed with Webber's position to send a recommendation to council stating "I think what we are doing here makes sense". It is council's responsibility to appoint someone to replace Greg Foster and maybe they (council) need a nudge.

Further discussion on this topic continued and Commissioner Nunez commented she was surprised the committee didn't meet in 2016 and 2017. **Commissioner Scruggs** asked if there was a requirement that the committee meet monthly, quarterly, etc., **Assistant Chief Gay** responded, yes there was a requirement that the committee meet twice a year. **Scruggs** -could you add in the recommendation language that members do what they signed up to do?

Peter Steffensen was asked to introduce himself and share a little bit about his history and why he wants to serve on the ARIC Committee

Commissioner Nunez – asked if the Chair of the ARIC committee term was for 2 years? AC Gay responded yes, that is correct

Commissioner Rossmo – inquired about the individual Greg Foster recommended to take his place on the committee when he resigned.

Commissioner Webber's response – she did reach out to that individual and he was no longer interested

Commissioner Scruggs – asked for additional wording in the recommendation, "ask council itself to urge that the committee meets and performs/follows guidelines that were established when the committee was formed".

Commissioner Lee – commented APD is responsible overall for the ARIC Committee, is that correct?

Who is responsible for handling/ensuring the Open Meetings Act compliance (i.e. postings of agenda, minutes, etc..)

Assistant Chief Gay – responded that ARIC has a director and an Austin Police Commander handles the oversight portion of the committee. The City of Austin Legal Department assists the committee with the compliance for Open Meetings Act. **Commissioner Lee** requested more transparency from the committee with the posting of the necessary materials. While doing research on the committee she could not find any agenda, minutes posted from previous meetings on their website.

AC Gay committed to checking on getting some updated to the website.

Commissioner Webber motioned for approval of the Recommendation – Regarding City of Austin Community Advocate Appointee to the Austin Regional Intelligence Center Privacy Policy Advisory Committee and Commissioner **Tyree** second.

Discussion:

Commissioner Nunez asked if we knew if there was anyone else interested in the position. There was no one that the Chair was aware of.



Public Safety Commission Recommendation no. 20180402-005

Regarding City of Austin Community Advocate Appointee to the Austin Regional Intelligence Center Privacy Policy Advisory Committee

Date: April 2, 2018

Subject: City of Austin Community Advocate Appointee to the Austin Regional Intelligence Center Privacy Policy Advisory Committee

Motioned By: Commissioner Rebecca Webber

Seconded By: Commissioner Preston Tyree

Whereas, the Interlocal Agreement between the City of Austin and its regional partners establishing the Austin Regional Intelligence Center [ARIC] includes the following provisions regarding ARIC's Privacy Policy and ARIC's Privacy Policy Committee [Committee]:

IV. GOVERNANCE AND OVERSIGHT

...

A. The Executive Board shall be comprised of the heads of the five major Law Enforcement entities in the Austin-Round Rock metropolitan area, or their designee(s), and chaired by the APD police chief or designee. The Executive Board shall meet as needed and agreed upon by Board members. This Board

shall:

...

e. Review and update the ARIC Privacy Policy annually based upon recommendations by the Privacy Policy Advisory Committee (described below), and changes in applicable law;

f. Shall provide an annual report to Partner Agencies on the status and efficacy of the Privacy Policy and ARIC based upon internal and external audits conducted and/or coordinated by the ARIC Operational Management Team (described below).

...

VI. COMPLIANCE WITH LAWS REGARDING PRIVACY, CIVIL RIGHTS, AND CIVIL LIBERTIES

A. Privacy Policy.

The information shared between the parties will be handled in accordance with Austin Regional Intelligence Center Privacy Policy (Privacy Policy) and the “Criminal Intelligence Systems Operating Policies” 28 CFR Part 23, U.S. Executive Order 12291. The Privacy Policy, as accepted by the Department of Homeland Security, shall be adopted by the Executive Board prior to the Center becoming operational.

All personnel assigned to ARIC, Partner Agency personnel, personnel providing information technology services to ARIC, and any other authorized users will comply with the ARIC Privacy Policy. The Privacy Policy shall apply to all information and intelligence the Center gathers or collects, receives, maintains, stores, accesses, discloses, or disseminates to Partner Agencies (including federal Information Sharing Environment participating centers and agencies), and participating justice and public safety agencies, as well as to private entities, and the general public.

B. Privacy Policy Advisory Committee.

a. The Privacy Policy Advisory Committee (Committee) shall review the Privacy Policy annually to ensure safeguards, and sanctions are in place to protect personal information, and shall advise the Executive Board of ARIC of its recommendations based upon the purpose and mission statements of ARIC.

b. The Committee shall annually select from its membership a chair and any additional officers that the board finds appropriate. A person may not serve as the chair for more than two consecutive years. Upon selection of the chair and additional officers, the Committee shall agree upon the meeting schedule and other operational procedures.

c. The Committee shall include the following, as selected by the governing bodies or their designees:

1. a community advocate, as selected by the City of Austin;
2. a licensed attorney, as selected by Hays County;
3. an information privacy advocate, as selected by the City of Round Rock;
4. a criminal justice expert, as selected by Travis County; and
5. a law enforcement expert, as selected by Williamson County.

d. The Committee shall provide an annual report to the Partner Agencies that contains any proposed changes to the Privacy Policy along with the results of any discussion and review by the Executive Board regarding such changes.

e. The Committee shall comply with the Texas Government Code, Chapter 551 (Open Meetings Act) to the extent not otherwise required by Chapter 551 or other state or federal law or rule.

Interlocal Agreement, *available at*

https://arictexas.org/html/aric_general_interlocal_with_council_changes_060910.pdf.

Whereas, the ARIC Privacy Policy Advisory Committee met only once in 2016, held no meetings in 2017, and has no meetings yet scheduled for 2018.

Whereas, ARIC's Executive Board did not meet with the Committee in 2016 or 2017.

Whereas, the Committee did not issue an annual report in 2016 or 2017.

Whereas, APD made several unsuccessful attempts in 2017 to encourage the Chair of the Committee (Hays County's Appointee) to convene a meeting of the Committee. That Chair has now resigned. APD reports that the four current members of the Committee are taking steps to elect a new Chair and meet soon however a meeting date has not yet been determined.

Whereas, the City of Austin's long-serving Community Advocate Appointee to the Privacy Policy Advisory Committee resigned in June 2017.

Whereas, Peter Steffensen—a local public interest attorney working at the Texas Civil Rights Project and specializing in First Amendment, civil rights, and privacy issues—submitted a letter of interest to the Public Safety Commission regarding his willingness to serve as the City of Austin's Community Advocate.

Whereas, Peter Steffensen presented to and was vetted by the Public Safety Commission on April 2, 2018.

THEREFORE, BE IT RESOLVED THAT:

The Public Safety Commission recommends that City Council appoint Peter Steffensen to be the City of Austin's Community Advocate on the Austin Regional Intelligence Center Privacy Policy Advisory Committee.

The Public Safety Commission further recommends that if Council remains committed to the mission and purpose of the Privacy Policy Advisory Committee that it exercise greater oversight over the Committee (including, if appropriate, directing the Public Safety Commission to assist in that oversight).

Vote

For: 9 (Commissioners Carol Lee, Rebecca Gonzales, Preston Tyree, Noel Landuyt, Ed Scruggs, Sam Holt, Daniela Nunez, Kim Rossmo, and Rebecca Webber)

Against: 0

Abstain: 0

Absent: 1 (Commissioner Brian Haley)

Attest: *[Staff or board member can sign]*

Janet Jackson, Board Liaison,
Austin Police Department

6. Follow-up to March 2018 item on policies and procedures for investigating allegations of harassing behavior by members of department executive staff

Commissioner Webber invited Monika Arvelo, Assistant Director Human Resource Department, City of Austin and Robert (Bob) Nicks, of Austin Fire Department to begin the presentation on City of Austin policies and procedures for investigating allegations of harassing behavior mainly for executive staff. Monika begins with a power point on Harassment Policies and mentioned the policies are divided into 2 sections. The sections are labeled Chapter A and Chapter B. Chapter A applies to civilian employees and Chapter B applies to sworn staff. Currently Chapter B is being revised/updated and is not complete. **Commissioner Tyree** asked if the contract negotiations (City of Austin and Austin Police Association) have any impact on updating Chapter B? Monika responded, no it does not impact the updates in progress. Monika was using Chapter A policies today since Chapter B was still under revision. **Commissioner Landuyt** asked her to explain.

Monika presented on Harassment Policies

- Harassment
- Sexual Harassment
- Reporting and Accepting Complaints

- Retaliation Prohibited
- Investigations

There was much discussion from the Board members:

- Does APD policy cover behavior outside of work
- Define Protected Class
- The City of Austin policy covers more than the State's definition of protective class

Commissioner Webber explained what information/answers the board was looking for from HRD. PSC board is mainly interested in finding if there is a consistent process on how to file a complaint on a sworn executive employee and how does the investigation work until the end, so far that has not been presented. AC Gay commented that there is work being done now between Public Safety Departments in updating policies on harassment and establishing clear policies that are consistent amongst all three Public Service Departments.

The agreement was that this item would be brought back in a couple of months for an update on the revised policies (completing of Charter B)

Robert (Bob) Nicks, Chief Battalion, Austin Fire Department – shared his personal experience at Austin Fire Department when he filed a complaint on a current executive. He received retaliation and nothing happened to the executive staff employee. He is convinced that a department cannot police itself and should not be allowed to do so. Bob commented the only way to have good and fair investigations is to have an outside independent investigation company or use COA Audit Office for investigations of executives.

7. Future Agenda Items

- APD Policy to sell used weapons back into the private market (Lee and Gonzales)
- Community Paramedic Program (Holt & Nunez)
- Interlocal between City of Austin and Travis County (Webber & Scruggs)
- Customer Service Survey on the Public Safety Departments
- EPCR Software for EMS (Holt) (item is scheduled for the 4-26-18 Council Agenda)
- EMS Medical Direction (Scruggs)
- Metrics for evaluating Public Sector Chiefs (Landuyt)
- Data on call volumes and response times for police since they are out of contract
- Community Policing Item (Lee)
- Impact on overtime budget on APD because of no contract (Rossmo)
- Morale and PTSD information and efforts by APD (Rossmo)
- Criminalization of Homelessness (Nunez)

Adjourn @ 6pm