



**CITY OF OAKLAND  
OAKLAND POLICE COMMISSION**

**Meeting Minutes**

**Thursday, December 13, 2018**

6:30 PM

City Hall, 1 Frank H. Ogawa Plaza, Council Chamber  
Oakland, CA 94612

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**I. Call to Order**

Thomas Lloyd Smith

The meeting started at 6:30 p.m.

**II. Roll Call and Determination of Quorum**

Thomas Lloyd Smith

Commissioners Present: Maureen Benson, José Dorado, Regina Jackson, Edwin Prather, and Thomas Smith. Quorum was met.

Commissioners Absent: Mubarak Ahmad, Ginale Harris.

Counsel for this meeting: T. Smith welcomed Denise Bazzano, sitting in as Counsel tonight. She thanked T. Smith and said it is a pleasure to be here.

T. Smith welcomed Karen Tom whom you will meet later. She is the Acting Executive Director for the Community Police Review Agency.

T. Smith welcomed long been awaited Chrissie Love, Administrative Analyst II for the Police Commission.

**III. Welcome, Purpose and Open Forum (2 minutes per speaker)**

Thomas Lloyd Smith will welcome and call public speakers.

The purpose of the Oakland Police Commission is to oversee the Oakland Police Department's policies, practices and customs to meet or exceed national standards of constitutional policing and to oversee the Community Police Review Agency that investigates police misconduct and recommends discipline.

Gene Hazzard. He doesn't know when this Commission is going to realize that you have no power. Even when you spoke Mr. Chair, they didn't even give you deference for you being the Chair of this body. You shouldn't have let them limit you to two minutes. He told you that Measure LL is in direct conflict with 305(B) of the Charter. It does not give the Mayor any jurisdiction over staff, including the Police Chief, only the City Administrator. What you need to do is stop all this chattering with them folks who sit where you are right now, who are not going to do anything for all your pronouncements or claims. Just like the Inspector General. What you need to do and then you will get their attention is file a lawsuit. You need to file a lawsuit against the City for conflict with the Charter - 604 is in direct conflict with 305(E) of the Charter. It doesn't give the Mayor any jurisdiction. As long as the Mayor and the Police Chief are in concert with each other, it is going to be through the Mayor, the City Administrator, and the City Attorney to block any legitimate and reasonable concerns

that you may go before. You see how they ignore you. The only thing this body can do under 604, Measure LL, is to make recommendations. That is all. You have no power to change nothing. You see how they slap you in the face with the MOU. Thank you.

Bruce Schmiechen, Coalition for Police Accountability and OCO. He felt the same way - the treatment, the fact that the Chair/several Commissioners were at the City Council and they weren't given a chance to speak from that podium for as much time as needed on a vital issue which was the first procedure/order for the Department in terms of policy that came up. It was disgraceful on the part of the City Council. He said this issue was moved to tomorrow morning, 11 a.m., City Council meeting. He thanked Commissioners who showed up the other night; it was great to see you folks; it was important even though the treatment was inexcusable. Because this is the first real task of the Commission's policy, he thinks it is important that many folks, it is hard to keep coming to these meetings, and the way the City Council ran their schedule/meeting was absurd. If Commissioners can show up tomorrow, that would be important and as many of us are going to show and invite other members of the community to show tomorrow to show their support for the Commission – this is critical. He doesn't know what is going to happen tomorrow but maybe with the new Council that we may clear, that the Commission deserves respect, and that the policies that you are putting forward are serious – that you have been designated by the people who are the deliberative body for those policies and you should be treated as such. Tomorrow we got another shot and everybody should show up who can. Thank you.

Oscar Fuentes said he is waiting for the clock to start. He knows you guys are picky about the clock. He said he has been here a lot of times talking about the same thing. Reminder – Commissioner Dorado raised \$120,000 to unseat Desley Brooks. He pointed out, it may not be relevant, but Commissioner Dooley who just quit, he looked up a couple of people on the Commission about who they donated to – She donated \$500 to Lauren Taylor. She doesn't even live in District 6; she lives in Rockridge. That seemed funny to him too. A lot of people said to him including Commissioner Dooley, these aren't like important things, it doesn't matter, the Commission doesn't have a lot to do with the City Council. He pointed out the other night at the Public Safety meeting, the person who put the Police Commission in a position to get passed and to exist, Noel Gallo, sat passively and voted along with everyone else to make the parole and probation element a unanimous one – to accept the police version of that. Unanimous – that meant it went to the consent calendar which would have if there weren't 150 people here for other reasons, it would have gotten passed before anyone had a chance to say anything. That is why it matters. If Brooks had been there, she would have voted no, I am positive about it. It would not have been a unanimous decision and she would have made a good argument and she would let you, Mr. Smith, argue that point for as long as you wanted without the clock on. That is why it mattered and that is why you, Mr. Dorado, have shot this Commission in the foot and it's starting out limping and doing nothing.

Saleem Bey, long-time Oakland resident. Reminded the Commission that the Chief of Police came before this Commission on October 25 and took the fifth on racial profiling. Racial profiling, you are mandated as a Commission – you have no choice, not a political football, it's not a political thing to make your lives better. You have to investigate racial profiling. It came out in 2018, so there is the statute of limitation – the 3304 is still going. Now when I spoke on this item which is Bey 005778 (my last name is Bey) – we are the ones who fought for six weeks to get this on the Agenda. When I came up to speak on it, Mr. Chair, you told me I couldn't speak on it. My item – the item that I fought to get here, you told me I couldn't speak. It was interesting when I saw on TV as you got up there and they did the exact same thing to you. How does it feel about democracy and which we are here to hear what the people have to say or to hear what the truth is and not to regulate or deny the truth based on the fact that

you are sitting on that dais - I am not going to allow you to talk. That will not cover up the truth. The truth is that the Chief is covering up racial profiling, you all had the document that says racial profiling, and you allowed her to disrespect you, and come up here and tell you she is not going to say anything about it. You don't have to reveal anything about a case if you acknowledge that racial profiling is part of the case. Right? You didn't reveal anything about the under seal, you didn't say that, you saw racial profiling, and if you were the Chief or CEO of the Police Department you should have acted on it. You are over the Chief and you are not acting on it.

Henry Gage III, Coalition for Police Accountability. He thanked the members of the Commission who attended Tuesday's City Council meeting to advocate for the probation and parole search policy. He is grateful to have so many people up here and speak during Open Forum. It's one thing for members of the Coalition to advocate for these kinds of policies, it is an entirely separate thing for members of the Commission itself to come out and ask City Council to find in their favor and that is important. Thank you for attending. He encouraged anyone who has the opportunity to attend tomorrow's meeting, please do. We hope that you can vent your weight to the debate they are going to be having tomorrow morning. A couple of housekeeping items. Oscar was kind enough to note that your website seems to have a couple of missing links. The Agenda is not available on the Agenda section; only available at the Meeting section. There is a bunch of missing hyperlinks for past meeting minutes that he believes you have already approved. He might be mistaken on that, however.

Elise Bernstein, Coalition for Police Accountability. She is glad to see an interim Acting Executive Director. That is good. Also, Chrissie Love, finally a staff person. It is good to see you all. She echoes the words of Henry Gage – It was wonderful that three of you were able to find time to join us at the City Council's crazy hearing on so many substantive issues. Tomorrow morning, we will be back doing the same thing. Anyone of you who can join us, makes a good impression on people. She understands the overwhelming pressures on you and your time. You have been through so much in about one year – to have this first time that you are trying to go through the process of amending an OPD racist policy and to have it so screwed up; let's hope that we can clean that up tomorrow and have your amendment passed. She thanked everyone.

Assata Olugbala. Love life; love Desley Brooks. She started off by defining the purpose of the Privacy Commission. Their purpose is to protect the private rights and connection with the purchase and use of surveillance equipment and other technology. On June 29, 2017, this Oakland City Council passed Ordinance 13457. That Ordinance gave the Privacy Commission the right to review any federal MOUs that were developed and approved by the City Council; before going to Council, they would review the procedures, the policies, and any relevant subject matter to those MOUs. On Tuesday, there were four MOUs that were related to federal agencies. On November 26, those MOUs went to the Privacy Commission to review the relationship the Police Department would have with those federal agencies. Her question to you – How did those MOUs go to the Privacy Commission and they didn't go to the Police Commission? The inappropriateness of how this Council, this Administration, this Mayor has developed or lack of developing the appropriateness of how this Commission performs its duties and responsibilities is insulting. I am giving you one example of this past Tuesday how the Privacy Commission who has no authority to oversee governance of the police department in any form or matter, how they were given an Ordinance to do this work. This happened in 2017. She thinks someone needs to pursue this so this doesn't continue to happen.

Mary Vail seconded what some of the prior speakers said. It is critical that you fight for your decisions and your policy. We were able to squeak through on the Ordinance but had some major governance issues because of your unity and Thomas' advocacy but

you need to between meetings, when stuff is coming from you, talk to the Councilmember, show up at the hearings, it makes a difference for them. The Council is under relentless pressure – from the police department, City Administrator, City Attorney, they are trying to claw back to the way things were before LL, where there is all the non-transparency, protecting the police, etc. and not dealing with our public safety issues. You are here to deal with those issues and it's a new system and you have had a hard year, but you need to fight for your policies whether it is an individual reaching out, showing up at the key hearings. On a policy level, the biggest issue tomorrow with the probation and parole search, the administration seems to think that community outreach, working on the relationship, keeping the police happy, etc. is the way to get into compliance with the NSA. No, it is not. Basically, the elephant in the room in terms of noncompliance is the racial stop. She learned for the first time that for every 17,000 stops of African Americans, 1500 are Caucasians. These are recent numbers. There needs to be a change. Officers discretion needs to be curbed. For the NSA, for the community, that is how we are going to make the change. Adoption of your policy, or at least punning it to next year or more where more dialogue can occur is critical.

Mariano Contreras said we are just beyond a year of your service that began. He recognized that, it has been difficult, it is a beginning, a lot of the community is depending on this Commission to work and to continue. Let's recognize that the steps have been taken to healing a lot of wounds that go way back in regards to police accountability. Regarding tomorrow's Council meeting, there should be a vote taken for your proposed Attachment A. If there is a vote on that and that is voted down, and they recognize and vote for the proposal that the police brought to you and to the City Council, then procedurally that needs to go back to the Committee. Those two items are to be decided tomorrow. Any concessions, deals the police department makes tomorrow, you should adamantly reject those because your Attachment A (Policy Proposed on Probation and Parole Stops) is on point and that is the only one that the community has supported so far. We will be here tomorrow to support that and he can't see why anyone would vote against procedural rules. Every City councilperson has told us – I can't do this because of procedural rules. Here we are. Do it correctly. Thank you.

Michael Tigges, Coalition for Police Accountability. To the Commissioners who were here on Tuesday night, thank you for representing yourselves even though you were essentially ignored. We stayed until the bitter end. We will be there tomorrow to back you up on Item 7.37. For those who don't have day jobs, hope you can attend as well. If you lose this one, the City will take it as, okay, we can ignore you. We the Coalition, etc., will be there tomorrow morning to fight for you and he hopes some of you can be there to fight for yourselves as well.

Rashidah Grinage, said happy anniversary but it won't be tomorrow if we fail. She said we because it is all of us – it's the community. The City Council is doing all sorts of manipulations right now and none of them have been properly noticed. We stayed until 1:45 a.m. Tuesday and we observed Dan Kalb working with Allison Dibley rather frantically along with Oliver Luby and it is clear and it was confirmed by another councilmember that he was working on some tweaks, amendments, changes to the language. She knows that the Chair and Mr. Dorado met with Mr. Gallo today and the Police Chief. She was invited to it and she was not going to go unless the Commission was present. She never heard back so she never knew whether or not if anyone did go from the Commission because no one got back to her about it. Her point is that people are trying to any kind of maneuvering they can to avoid voting for Attachment A, which is your proposal. We are not having it. She hopes that you are not having it. She hopes you are not making deals because we are not. This is symbolic as has been said by some of the other speakers. This is a symbolic moment. Either this Commission will

be accorded the respect that the Charter gives it to perform its duties and powers, or you will be seen as another puppet of the City Government. That is what is at stake. Your creditability and the confidence that the community has in you. Please hold the line, Attachment A. Thank you.

**IV. Approval of Draft Commission Meeting Minutes for November 8, 2018**

Thomas Lloyd Smith will offer the draft minutes for approval by the Commission.

a. Discussion

E. Prather referenced Page 29, Paragraph 3, Typo - Change E. Harris to G. Harris. He commended whoever put these Minutes together, 34-page treatise; someone certainly burned the midnight oil putting this very large packet together. He is very thankful for these Minutes.

M. Benson said thank you for taking the time to read the Minutes. She will be abstaining on the vote just on the general principle that large attachments like this coming to her 48 hours in advance are not accessible. She will name that in the hopes that as we plan more long term, we can get the documents out earlier for the public to consume and for the Commissioners to be able to debrief.

b. Public Comment

Rashidah Grinage referenced Page 2, last paragraph, Line 7 – She doesn't think she said unattainable; should be unacceptable. She asked that someone go back and listen to the tape again.

Oscar Fuentes said that on October 25, Commissioner Prather asked for minutes of October 11 to be re-edited to include a back and forth he had with the Vice-Chair. In the meeting where Mr. Prather reviewed the re-edited Minutes, he said he found them to be okay and they were up-to-date and correct. To date, the only Minutes that are available on the City of Oakland website, is the Final version of the Minutes from October 11. The reason he is bringing this up because on October 25 he stood before this group and he said that the person before him that night had spoken for four minutes and the clock hadn't even been on, and that is not included in the text of the Minutes for that night. That adds a lot of context because Mr. Prather asked for those Minutes to be reviewed and Mr. Dorado, who he has been criticizing that night, seconded the motion. It looks like you guys gamed the Minutes for petty reasons to show that whatever you say in front of this body can be silenced. He thinks that you all need to pay more closer attention to how you interact with the public when they are being critical of you. It looks like some of you are appointed by Libby Schaaf, she controls the City that is against this Commission and has put every roadblock, so it matters in the appearance.

c. Action

MOTION to approve the November 8, 2018 Minutes (E. Prather) and seconded (J. Dorado). The vote was Aye: 4 (Dorado, Jackson, Prather, and Smith); Opposed: 0; Abstained: 1 (Benson). The motion passed. Commissioners M. Ahmad and G. Harris were absent.

**V. Ratification of Acting/Interim Executive Director of the Community Police Review Agency**

The Ad Hoc Personnel Committee recommended the appointment of Karen Tom, Investigator III to the position of Interim Executive Director. The City Administrator interviewed and offered Ms. Tom the position contingent upon Civil Serviced Board approval of a leave of absence from the Complaint Investigator III position. The Ad Hoc Personnel Committee now requests that the Commission ratify its recommendation of Karen Tom for the position of CPRA Interim Executive Director.

a. Discussion

T. Smith reported that the Personnel Committee met with the understanding that there was a vacancy in the Executive Director position for the Community Police Review Agency. What we did was we interviewed candidates so that we could determine who would fill that vacancy in the interim period so that the Community Police Review Agency would still have a Director present. We submitted our recommendations to the City Administrator and our recommendation for the position was Karen Tom, who is here tonight. Ms. Tom is now in place as the Acting Executive Director of the Community Police Review Agency. What we would like to do is ratify the decision of the Personnel Committee by the Commission. If there is discussion, let's have it now and then proceed to Public Comment and come back and make a Motion around it.

M. Benson said she would like to hear more; She knows there are two of the three of you that were part of that process. Just in the spirit of transparency and telling the public as well as other Commissioners because she has not talked extensively with you about it. She likes Ms. Tom very much in the few minutes they met. Why Ms. Tom? What was exceptional about her and what stood out in the process. She asked them to share what you are excited about; help her have some information as to why she can vote for ratifying this, that would be helpful.

T. Smith asked Ms. Tom to talk about her background. Ms. Tom said that she is a licensed attorney. Prior to coming to CPRA, she worked with the CPRB, and prior to that she was a civil litigation attorney. She has been with the CPRB and now the CPRA for twelve years as a Complaint Investigator. She is an Oakland resident. She has been committed to the work of the Agency and being committed to review cases of police misconduct in ensuring that the community and the citizens of Oakland - helping to build trust with that relationship with community members feeling that they have a space where they can follow a complaint and that we will take the complaint seriously and review it for potential police misconduct and for discipline. She feels that she has been with the Agency for a long time and has seen it go through a lot of changes. She is ready and willing to help the Police Commission with whatever they need help with. Her services are completely available and she looks forward to helping transition; we are in a transitional period and she looks forward to helping with that transition into the new phase of what Measure LL had in mind when it was created.

R. Jackson said that we interviewed three candidates. Her feelings about Karen Tom was that she was delighted to know she was an attorney. The breadth and depth of her experience both in CPRA and CPRB was very helpful. She communicated in a very clear and concise way. She was very flexible but firm about what she knew and wanted very much from a customer service perspective to get the kinds of direction on things that we might want to know about. She did ask us some probing questions about our own background, etc.; a very proud Oakland citizen, very astute, very knowledgeable, and does not believe in terms of her forthrightness that she would at all be a push over. She talked about being able

to deliver difficult news if it was necessary to do so and what she felt was that the answers aligned with strong character and of course, that is her gut based upon interviewing and she is expecting to see that too.

T. Smith said he was present. He completely agrees with what R. Jackson was saying. Besides the fact that she has the credentials as an attorney and then also as a Complaint Investigator, one of the things that stood out was her energy and her desire to take this role and to make sure the CPRA is advancing the goals for itself and for also being in support of the Commission. We unanimously agreed on the choice. We were all impressed with her. We were pleased to have her in the role and that she was willing to step out of her position to take on this responsibility on short notice and obviously, during a critical time for the Commission. It was an interview that we all felt good about and after we left, we said, wow, we found somebody who is going to do a fantastic job for us.

R. Jackson forgot to mention that it was unanimous given the candidates, we thought she was the best.

M. Benson said that raises a question for her (this was after Mr. Bey's comments). In addition to the interview process, what about Ms. Tom's background and record with investigations as it relates to being aligned with Internal Affairs, did you consider that? T. Smith asked the City Attorney regarding this personnel question. Counsel Bazzano stated that she would caution any discussion of information that was relayed through the City Attorney's Office. That is something that we would not want to share in a public forum if it is personal information that was learned because of your work through that Ad Hoc Committee. M. Benson - how about framing it as a procedural question? Counsel Bazzano said that depends on what your procedural question is. It may be more appropriate later in the Agenda when we get to the recruitment for the regular position. M. Benson said she would argue that is critical for this right now because we are asking to ratify for this person. Since we can't ask Counsel this, then let's just ask it as a yes or no question. Did you do other work to explore the candidates in general/background, particularly if they were investigators, and very specifically to look and see the findings of their cases as it correlates with the findings of Internal Affairs?

T. Smith said what we did was we asked for a couple of things, in addition to the general experience/background. We asked - Whether or not there were complaints against the people who we had put up? We did not receive any indication that there was anything that we should be concerned about. We did want to make sure if there was something out there that we are aware of it. We had some screening factors in addition to the experience and background that would give us a red flag if there were. We were not made aware of any.

M. Benson said thank you for answering that; it is helpful. It lets her know then to what degree citizens may have been proactive in pursuing further complaints. She thinks it is possible that in a City that is jaded in building creditability with CPRB and CPRA that is one measure. Is that something we can explore, not publicly - for her, what is interesting is what Mr. Bey said - It's important, even in the Interim position but we are going to move through this quickly and find a permanent Executive Director. She thinks we need to be moving the needle to make sure that the people who work for the CPRA, particularly the people leading CPRA, are willing to push hard and in her opinion, there should be a lot more disagreement than what we have seen between the CPRA findings and Internal Affairs findings and she hasn't seen that. It can be part of the process, whether it passes or not, she would want to hold and not vote on it until we can explore the background of creditability in terms of case findings as it relates to - are they aligning with Internal

Affairs findings or are they disagreeing with what Internal Affairs are finding.

E. Prather thanked the Ad Hoc Committee (R. Jackson, Chair Smith, Vice-Chair Harris) for jumping on a hot issue for the Commission. We took action in Closed Session less than a month ago dismissing the Executive Director and frankly to put together an Ad Hoc Committee to do this work in the interim and to have before us a choice which is commendable and important. He thanked them for putting that work together. Commissioner Benson, what you are saying resonates with him. The way he views that is that energy should be focused on and taken on, at least for him, the selection of our permanent Executive Director. Now to leave our Agency without an Interim head would be a mistake. There needs to be some continuity of process with that person, he hasn't spoken to any of the Ad Hoc Committee members, but he is sure that is something they took into account. There has to be a familiarity with personnel, issues and processes and to some extent, some of status quo has to continue in order to keep that Agency afloat. He also understands the need for change and the push and the drive – it is important to talk about that while we are accepting status quo we cannot accept status quo at the same time. If we truly have a concern, then it should be okay. How quickly can we move on this Executive Director selection process? Can we put more energy towards it so that can happen more quickly? He certainly will be voting in favor of Ms. Tom. He has met her, in the brief interactions he had with her - she is professional, personable and is more than capable of providing interim leadership to that group. If she wants to apply for a permanent position, he would certainly invite her to do so if she hasn't already. He thanked the Ad Hoc Committee for doing this fine work. He said he will bring a Motion.

b. Public Comment

Rashidah Grinage congratulated Karen Tom on this appointment, assuming you all concur. She has known her for quite a long time, ever since she joined the CPRB, and she can certainly say from her experience in working with some of the complainants that came before the CPRB, she feels good about her as a choice to do this work.

Gene Hazzard. He doesn't know Ms. Tom. A lot of folks could have a lot of commendable skill sets. What you want to get at, in addition to the skill sets, where is the compassion for the victim? That is what you got to stay focused on. We can have these flowering comments, and this is no denigration of Ms. Tom's skill sets. This body should be looking at abuses by/on the victims. That is what you are here for – to be the voice of those who listen to if they have some legitimate concerns about what has happened to them. Don't be clouded by one's skill sets. We have to look at the passion and compassion for the victims – that is the most important thing. Procedurally, he has one question Mr. Chair – Is Ms. Tom an Acting or Interim and how long will that last and she may very well be a candidate for the permanent position? T. Smith said that we are in process and we will talk about it later in the Agenda about our Executive Director recruiting process. We are still seeking a permanent Executive Director. At this point, Ms. Tom has not indicated any interest in that position; she just offered to fill in for the interim period.

Saleem Bey asked all the people on the Ad Hoc Committee who are alluding Ms. Tom – how many of you have filed a complaint with the CPRB where Ms. Tom had any access to that and if it is zero, then I would stand here and say that I have more credibility to speak about Ms. Tom than you did in a very small interview. What happened is in 2007, he filed IAD 07-0538. Ms. Tom was one of the investigators on that case. She closed that case. Seven years later, under 13-1062, which is one of the cases that he keeps bringing before you to investigate, it was



then found that the exact same cases – my brother who was shot, my other brother who was murdered, that these were MOR violations. How could Ms. Tom close my case in 2007 and then in 2014, the case is found by IAD to be sustained. This is the person that you are saying to put in here. Let’s put this also in perspective. Eight-three to eighty-four percent of the population voted to take the power away from the CPRB and put it in your hands and yet every single time the Commission brings in the CPRA now, which was the CPRB, it is the same people. How can the Mayor’s appointees choose a person who has been inside the City for these years closing cases? I am talking about what I know. He isn’t talking about what he heard or anything. This is his case – IAD 07-0538 that Ms. Tom closed. Not only that, if you are going to keep putting up the CPRB to replace the people who are your Investigative arm, your creditability is zero. The people who voted 83% to take the power from the CPRB and yet you keep putting CPRB people up in its place. That’s your creditability. Your creditability is zero if you keep putting people like Ms. Tom in. Do not put her in there. Chair Smith interrupted him three times and said thank you Mr. Bey and he finally left the podium.

c. Action

E. Prather said he would like to make a motion. There were interruptions/noise by the public when he was trying to make a Motion. E. Prather said several times to the public that he does not interrupt anyone when they are speaking and asked that they do the same for him. T. Smith stated to the public that when you are not at the microphone, you do not have the floor.

MOTION to ratify the action of the Ad Hoc Committee in appointing Karen Tom, Investigator III, to the position of interim Acting Executive Director of the Community Police Review Agency (E. Prather) and seconded (J. Dorado). The vote was Aye: 4 (Dorado, Jackson, Prather, and Smith); Opposed: 1 (Benson); Abstained: 0. The motion passed. Commissioners Ahmad and Harris were absent.

**VI. Oakland Police Commission Analyst II Position**

The Commission will welcome Chrissie Love, Administrative Analyst II for the Oakland Police Commission. Ms. Love began working on November 19, 2018.

a. Discussion

T. Smith said that unfortunately she was not able to stay; she was here before the start of the meeting.

J. Dorado mentioned that he said to her that she will be working hard and she said that is fine.

b. Public Comment

Rashidah Grinage said she was going to welcome her but she is not here. T. Smith said that she wasn’t approved to stay or was not able to stay. Ms. Grinage said that is not a great way to start off; she hopes things resolve.

**VII. Executive Director Recruiting Process for the Community Police Review Agency**  
The Personnel Ad Hoc Committee will discuss and provide an update on the Executive Director recruiting process.

a. Discussion

T. Smith said let's catch up and see where we last left off on this process. As a Personnel Committee we have been in discussion about the process and we had a discussion at one of our past meetings where we agreed that the Personnel Committee would bring a reduced number of folks and he believes E. Prather set the number; T. Smith believes it was a single number of folks we would recommend. We are in the process of trying to schedule times and what we had proposed (Item 7a in the Agenda Packet) - an initial run was to conduct telephone interviews and figure out which candidates we planned to invite for an in-person interview and then try to conduct those in person interviews by January, was the intention.

T. Smith asked M. Benson if she wanted to talk about suggestions for the process. M. Benson reported that prior to Mr. Nisperos' departure, she had forwarded a significant amount of information she received from the Chicago Office of the Inspector General – hiring process (some of the questions are cited in Item 7a in the Agenda Packet). G. Harris and she got together to try to pull together different steps and there were some similarities we came up with. One of the key things we had talked about was potentially having folks submit a preliminary essay (500-750 words). There were some questions we generated – some of which were important to G. Harris (she doesn't want to speak for G. Harris) but she thought made more sense in an interview but G. Harris felt firmly there were key elements of whether a potential candidate would deeply be invested and represent the community that they would serve in Oakland. It starts with an essay and then it moves into past experiences, phone interview. The key piece is that there would be interview panels, that are not only Commissioners but would also include potential community members – not just the Ad Hoc Committee but it could be any Commissioners that are interested in participating. Not unlike the Selection Panel did nominations, appointees to this Commission. The third process would be an in person (by Panels of three), again Commissioners and community members. Then a final interview that would be in Closed Session with the entire Commission.

R. Jackson – as a late addition to the Ad Hoc Committee – she loved seeing this and it's nice to know that you were able to pull up from an experienced entity that gave it frame. She is excited about the writing because writing is so important and it will tell a lot about folks. She thanked M. Benson and G. Harris for their work.

E. Prather said he is looking at Items 7a and 7b and they don't seem to be necessarily in opposition of each other so there is some cross over but obviously different mechanisms for scoring and maybe some questions. Is there an attempt to blend these two documents or are we here to consider proposals? His reaction to this is the Personnel Committee which is the Personnel Ad Hoc Committee and they do a fine job and I am ready to defer to that Committee because the Commissioners get final say. He wants to understand what he is being asked to do here with these documents.

M. Benson said this is the part we want to make sure there is full transparency. If G. Harris and she had submitted this to the Ad Hoc Committee and they had done work around it, we would have been in violation with the Brown Act so we wanted to bring it forth here so the Ad Hoc Committee did not have that conversation (there would have been four of us). Her hope is that it be submitted for consideration to the Ad Hoc Committee, blend of pieces of support; she is not

offering this as a competing proposal.

E. Prather said I think this is an email from you (T. Smith) laying out the time frame in which the interview and selection processes are going to take place (Item 7a). We are talking about the scheduling of interviews, the invitation to certain community members to participate in those interviews – has this process been started by the Personnel Committee or are you still on schedule, this contemplates agendized Commissioner interviews of candidates in our January meetings. What is the status of this schedule?

R. Jackson added that given the challenge and not wanting to have any involvement with the potential of the Brown Act violation, we are a little bit behind because we figured the only way to create a fully informed process was to serve it to the community so that they can have some comments. What she is looking at in terms of G. Harris and M. Benson's recommendation is more of a process orientation that allows a rubric and all that. Given the holidays, since we weren't able to schedule those interviews in the first half of December, chances are everything pushes back, probably about a month to be realistic. T. Smith agrees.

E. Prather asked if there is action that the Ad Hoc Personnel Committee needs to take or can you follow some blend of these processes without formal action?

T. Smith said that we can probably blend the processes. He would like to hear community input. Then we can take it to the Personnel Ad Hoc Committee.

M. Benson – Timeline, if you do get together and she doesn't know when the G. Harris is back so that you can have an Ad Hoc; it is feasible to get a request for essays out if you decide to do that writing component out before the holidays and request that they are in your in-box by January 2 so you can promptly begin at the New Year. T. Smith agrees that writing is an important tool and we should do that.

b. Public Comment

Rashidah Grinage asked whether or not you are going to reopen the application process so that additional candidates can apply, especially since it was posted so long ago and it seems like some of the people have gone on to other positions, especially since you are not going to follow this time line that you give it another shot and repost it. Was the position posted at NACOLE? Do you know if it was, and certainly it should have been? That would be one of the prime areas where you would find appropriate candidates who had that level of experience that you are looking for. She also noted that the police auditor from San Jose was replaced and that person might be a suitable candidate and might not be aware that this position is open. Again, depending on where it was advertised and the fact that it was advertised so long ago, he might not have been looking for a job then but he might be now. There are some compelling reasons to reopen the process for at least 30 days and especially now that you have someone as an Interim that can hold down the fort while you are doing this. She noted that Richard Luna probably should be replaced by Chrissie Love on Item 7a. On determining participants (Item 7a; No. 2), Chairperson Smith, you named some possible participants from the community and you included Sarah Chavez-Yoell who is not a resident of Oakland – She didn't know what criteria you were using. T. Smith said he was looking at Selection Committee members. R. Grinage said she doesn't know why that would be relevant in this instance. They were deputized to select Commissioners but not staff and she is not sure if that is a useful way of making that determination. She is not an Oakland resident and she would not be qualified to be on the Selection Panel based on the current Ordinance. Ms. Grinage referenced Item 7b – She had a problem with question 3 for the essay “Why do you think people are poor?” She is

having a hard time understanding how that is an appropriate question to ask for this position in view of the experience and background – just the job qualifications for this job, she is not clear that this is an appropriate question and she doesn't know how you would score it.

Henry Gage III, Coalition for Police Accountability. His comment was with respect to question 3 (Item 7b). He is also confused as to why that question is posed in context with the first two which to him make complete sense for the position being hired for. He encourages you to reconsider – it seems that the question is designed to reach to something slightly different, perhaps an understanding of the economic impacts with people, etc. Maybe we could clarify that question better.

Saleem Bey. On the Executive Director, he spent three months telling you how foul and filthy Mr. Finnell was in that position and eventually you caught up with it. He told you how obstructionist the City Attorney lady was and finally it caught up with her. He told you that Ms. Tom is tainted and you ignored that. T. Smith said the title of this Agenda Item is the permanent and Executive Director position. Mr. Bey interrupted T. Smith. Mr. Bey said Mr. Finnell was the former one and he was speaking on him as part of this and asked if he could finish. T. Smith said no, Ms. Tom is not tainted. Mr. Bey said you are talking over me. T. Smith said he certainly is and you are out of order. There are rules, etc. Counsel Bazzano stated that during public comment you have to speak on this particular Agenda item so if you have something. Mr. Bey said exactly and he is speaking and he said the former Executive Director and that is who you are replacing. Counsel Bazzano said the Chair was trying to clarify if you are speaking on the item. Mr. Bey said he is listening to it. Mr. Bey kept talking over Counsel Bazzano. Do you have any comments on the Agenda items? Mr. Bey said if you would listen to it, maybe you would hear and that at the end you put it together and then comment after that. Thank you. So, that is it? That is all I can talk? T. Smith said you can speak on the item. The former Executive Director, the one you brought over as an Interim, when the public came to you and asked you and told you that this person was tainted, that this person closed cases, etc. – you didn't listen. So, what we are saying is, that in this process of hiring in which you have an Ad Hoc Committee that is his understanding is made up of more Mayor's people than it is with community people, is that correct? As part of that, we are saying that is a wrong thing – it should be more community people picking the person for the position, not the Mayor (should not have any say other than have one person on the Ad Hoc Committee). Case in point. The Ad Hoc Committee that was supposed to go to the CPRA to be investigated which was our case, then the can was kicked down the road and we haven't heard anything from that Ad Hoc Committee about what we are doing with this. The point being is if you are not going to listen to the public, he doesn't know what your interaction is with the police ... T. Smith said your time is up. Mr. Bey kept talking. T. Smith said thank you Mr. Bey your time is up. Mr. Bey kept talking. T. Smith said thank you Mr. Bey.

c. Action, if any

None.

## **VIII. Request for Qualifications for Legal Services for Outside Counsel**

The Commission has received the first draft of the City Attorney's RFQ for Legal Services for the Commission. Under Measure LL, one full-time-equivalent non-City Attorney legal advisor shall be assigned by the City Attorney after consultation with the Chair of the Commission (§ 604(e)(1)). Chair Smith invites feedback from the

## Commission and the Public on the RFQ.

### a. Discussion

T. Smith said now we are in a process of creating the RFQ for these positions. He wants to make the RFQ in its draft form public so we can collect comments and have discussion that folks might have on it at this point. He attached the RFQ so that the public and the Commission can see it and take comments in consideration as we try to give comments and response to this first draft we received from the City Attorney's Office (Item 8 in the Agenda Packet).

R. Jackson said she is pleased to receive the communication from the Coalition for Police Accountability in that they are far more learned about RFQ processes than she is and have pointed out some inconsistencies or things that perhaps we can go back to the City Attorney and ask for some changes. She suggested that since we all received a copy (Item 8 in the Agenda Packet) that we can take some steps to make some more changes.

M. Benson agrees and thanked the Coalition for Police Accountability in catching this and being clear. It is worth saying into the record out loud (I know that you sent it to us and passed it to us) – that “Measure LL Section 2.45180(D) of the Ordinance stated the legal advisor to the Agency and the legal advisor to the Commission shall report to the Commission. Neither the legal advisor to the Agency nor the legal advisor to the Commission shall report to/or be supervised by the City Attorney or any Deputy City Attorney.” This is listed to us as a quote and if this is a verifiable quote, which she assumes it is, we absolutely have a compelling case to modify this RFQ significantly. As Ms. Grinage pointed out recently too then the contracts follow and indicates it is a very similar language as the contract. Again, trying to be mindful of precedent, we need to be meticulous with our language here – both for how we put the call out for the position and for accountability and follow through. She is eager to get an attorney that is unquestionably prioritizing the needs of the community and not the needs of the City.

T. Smith said that he believes that in public comment we will hear additional information. Let's not steal their thunder.

E. Prather – what he would offer – he has looked at some of the buckets of edits, although they are not redline edits from the Coalition for Police Accountability. He doesn't know if those were drafted by Mr. White, Mr. Gage or perhaps someone else that he is not aware of. What he is willing to do for our body is to work with that individual, come back with a redline at the next meeting, and present it to everyone so that we can vote on a redline to then be provided to the City Attorney not under any illusion that the City Attorney would just accept our draft as redlined. He is willing in this interim period before our next meeting to work with the Coalition to do that. He doesn't think we need an Ad Hoc Committee. T. Smith said that would be great.

J. Dorado - added this to the list of mistakes and missteps of the City in general, including Counsel, that has been made. The list is getting to be pretty long.

### b. Public Comment

Larry White said he is happy to have his thunder stolen here; thank you Commissioner Benson for reading out loud what he would have read aloud which is language that is directly from the Enabling Ordinance which is language that the

Commission sent to the Council to have passed. It is language that the Coalition had something to do with. What is interesting – it says clearly that the Commission lawyer and the Agency lawyer report to the Commission and not to the City Attorney or any Deputy City Attorney but the RFQ says “the Office of the City Attorney is responsible for providing all legal services for the Commission”. That is a direct contradiction. The thing about the RFQ is that it has this, first it is misleading. Anybody applying for this position will look at it and think they are going to be working for the City Attorney. No, they are not. This should be disturbing for a legal operation to be putting out something of this importance that is misleading but we have seen so much from the City Attorney that nothing surprises him anymore. The overall problem (E. Prather’s suggested plan of action is a good one and we are happy to work with the Commission on this too) is that this is boilerplate. This RFQ is what they use to get outside counsel for litigation. This is another thing that he finds infuriating – a type of bureaucratic sleep walking. He will not speak for a long time. This RFQ is meant for lawyers and law firms who are engaged in litigation for the City. The one thing the Commission and the Agency attorney will not do is litigation. I don’t even know anybody who has their brain working could be looking at this job and then put out this RFQ, it is completely inappropriate. The worse thing about that is that it is going to go to the wrong people – big law firms doing outside litigation, that is not the kind of people you are going to be recruiting from. You are going to have two part-time positions. You could have hopefully people who have a strong interest in public policy and they could be professors at Boalt, retired people, etc. They don’t necessarily have to be lawyers in a major law firm. He thinks you need to do your own and have it tailored specifically to these two jobs – lawyers for the Commission and the Agency. We look forward to working with you.

E. Prather to Larry White – Your recommendation is that we tailor our own RFQ’s. Are you of the position that the current City Attorney document can’t be redlined to fit our needs. Mr. White said it could be – you can redline anything. As he said, three-quarters of it is probably boilerplate and that is unnecessary and you could redline it. However, you want to do it, that is just a procedural thing. If you are comfortable with that, you could certainly do that.

Larry White – If anybody wants to ask him questions, he has time. T. Smith said we can’t do that during public comment. We are about to go to recess.

c. Action, if any

None.

**IX. Recess (8 minutes)**

**X. Proclamation for Alternate Commissioner Andrea Dooley**

The Commission will vote to fund and award a proclamation to Alternate Commissioner Andrea Dooley to recognizing her service to the Oakland Police Commission. The Commission will also vote to reimburse expenditures for funding a proclamation for former Commissioner Mike Nisperos.

a. Discussion

T. Smith said we had a proclamation for our former Commissioner Mike Nisperos. Commissioner E. Prather paid out of his own pocket to give Mike Nisperos the proclamation. T. Smith thanked E. Prather. T. Smith said that when he spoke to

him, he wanted to do it and he respected Mr. Nisperos. T. Smith asked E. Prather what the costs were. E. Prather said in doing the proclamation, he did research on how these proclamations are made, not cheap, etc. Mr. Nisperos' proclamation itself was \$350.00; \$70.00 for the frame; expedited shipping/handling (on short notice) \$83.23 for a total of \$503.23.

T. Smith said there is a second item to discuss in doing a proclamation for Commissioner Dooley.

R. Jackson is glad to see this on the Agenda. We set exceptional precedence in giving Commissioner Nisperos a proclamation and glad to see that we are going to make it a continual. Whether Commissioner Dooley can be here to be presented or whether three of us take it to her home. Thank you to E. Prather because he did the right thing to do; the fact that we did not have a lot of time was important for him to speak to his commitment to honoring the excellence that Commissioner Nisperos gave to us. She believes that we had similar excellence from Commissioner Dooley. She is glad we are doing this and that there is potentially room in the budget to make sure that can happen, he did this for the right reason (it should be a budgeted item).

M. Benson agrees with R. Jackson. She thanked E. Prather for taking the initiative to honor and acknowledge excellence and said that Commissioner Dooley has brought similar excellence to the Commission. If we are going to set a precedent, honoring the excellence and contribution of our Commissioners, then we should do so. She would be happy to take the initiative to move forward with the proclamation and go through a similar reimbursement process so that we don't hold this up any longer with bureaucracy. T. Smith agrees – everybody has said it so he said ditto, ditto – agrees on both counts.

J. Dorado said thanks and he appreciates it. To E. Prather - All that went out of your pocket on an attorney's salary?

b. Public Comment

Rashidah Grinage said thank you and publicly acknowledged the work of former Commissioner Dooley. It is no secret that she contributed mightily to this first year of your operation and expertise, especially in the law but also her commitment and understanding of the issues and her focus on Measure LL and its intent were very valuable. She is sorry that she wasn't able to continue. She acknowledged that Commissioner Dooley contributed mightily to your efforts and to the community at large.

Michael Tigges said he signed up for Item 11. T. Smith changed his speaking time to Item 11.

Mary Vail, member of the Selection Committee, talked about her experience. She was disappointed when she had not met her. She was not in her finalists group. The Mayor nominated her. We had some incredible women finalists who had some of her skill set – personnel hearing officer, mediator, etc. Looking back over this year, she has done an incredible job. Temperament, hard committee worker (not brushing stuff off, only being an alternate), her thoughtfulness about policy, there were times when she worried the Mayor had been pushing you and us in the opposite direction on some of these policy issues but she has been strong - on independence staffing, ordinance issues. She is going to be missed and hopes that the Mayor seeks to replace her with the same skill set. She will be missed.

For someone who has worked on these issues for over 44 years, she is grateful for her service and wish that it would have been longer.

c. Action, if any

MOTION to reimburse Commissioner Prather for the sum of \$503.23 which he spent for the proclamation for Commissioner Nisperos contingent upon him submitting the proper documentation to support the expenditure (T. Smith) and seconded (R. Jackson). The vote was Aye: 4 (Benson, Dorado, Jackson, and Smith); Opposed: 0; Abstained: 1 (Prather). The motion passed. Commissioners Ahmad and Harris were absent.

MOTION to create and fund a proclamation for former Commissioner Andrea Dooley and present it to her whenever we can in the future (R. Jackson) and seconded (M. Benson). The vote was Aye: 5 (Benson, Dorado, Jackson, Prather, and Smith); Opposed: 0; Abstained: 0. The motion passed. Commissioners Ahmad and Harris were absent.

T. Smith said that once we know the timing we should invite former Commissioner Dooley back and present it with her.

E. Prather regarding the language for the proclamation - M. Benson said that she is emailing him now.

**XI. December Commission Meeting Schedule**

The Commission may take a vote to determine whether to approve one monthly meeting for December depending upon commission availability for the meeting on December 27, 2018. Measure LL states, “The Commission shall meet at least twice each month *unless it determines that one meeting is sufficient* in a particular month.”

a. Discussion

T. Smith put this on the Agenda to make sure that we have quorum for the next meeting in December. Benson (yes), Dorado (yes), Jackson (yes), Prather (No). He asked if anyone knows if Commissioners Ahmad or Harris will attend this meeting. M. Benson suggested a Motion.

b. Public Comment

Michael Tigges, Coalition for Police Accountability. You already determined that you are going to schedule the meeting unless you don't have a quorum. You will determine that in advance so the public knows. If you can't, it would be the most critical meeting this year – what happens tomorrow, results in you getting the language of the stop and search policy back for review. They are still saying the clock is running, the City Attorney insisted that you do not have a toll, it does not extend another 120 days but has to be decided by the new Council on January 7. You need to be available to revise and return it. I don't know what other plans they have. What we saw Tuesday says they will do anything they can to make sure you become irrelevant. We are not going to let it happen.

Mary Vail said she knows it is the holidays but given what is going to be happening tomorrow, in Public Safety earlier this week with Council's meeting on Tuesday – it is critical that you are in town. There have been some procedural twists and turns with this thing about the stop policy and she wouldn't put it past the Administration to set things up where the Council would do something more early next year in



between the meeting after the one on the 27th - you all should be around to talk individually and to come back – maybe hear more. She understands there is going to be more compromises which can't be adopted tomorrow that the Council is going to listen to. It is an extraordinary circumstance but you need to have a meeting even if it is only on this item if it is on December 27.

Rashidah Grinage following up on Mary's comment – she thinks it would be prudent to schedule the meeting – if it isn't needed, you can always cancel. If you don't schedule it, then it may be hard to get it on the calendar. She thinks there is game playing going on and you need to meet on December 27.

Nino Parker, homeless Green Team, Lake Merritt black homeless activist. He thanked T. Smith for the wonderful coat and nice jeans. He loves his support. He spoke about tomorrow and its importance. He is 100% behind you on that. He doesn't have a lot to say but he will save it for then. The issues here in Oakland are so devastating to our community, what has been going on here and that is with the police department, the homeless dollars that aren't spent on us – it is a shame that our numbers are down to 22.6%. If he had it his way, if you are a mayoral candidate and those numbers went down lower than that, he would have it so all the poor people and all the people that were being affected by that, vote you out if a certain percentage goes down. Hopefully, our numbers can continue to go up. Tomorrow's decision will be very important. You are placed here by the City, you can have a mayoral person who is on this Commission, and yet everything you do and tell them, it is for their benefit – bad police policy with the public – you constantly get them new choices, new solutions, it's their way or no way. Tomorrow we must do something about it.

c. Action, if any

MOTION to tentatively schedule the meeting (December 27) pending confirmation from Commissioners M. Ahmad and G. Harris that we have quorum as a result of their response (M. Benson) and seconded (R. Jackson). The vote was Aye: 5 (Benson, Dorado, Jackson, Prather, and Smith); Opposed: 0; Abstained: 0. The motion passed. Commissioners Ahmad and Harris were absent.

**XII. Working Session for Long-Term Agenda Prioritization and Planning**

The Commission will discuss and prioritize a list of agenda items for future meetings focusing on Measures LL mandatory required activities and deliverables for the Commission. The Commission will also consider retreat items and public requests.

a. Discussion

T. Smith asked M. Benson if she would like to take this Item on. M. Benson said yes. There are three Items in the Agenda Packet (12a, 12b, 12c). She explained Item 12c - List of over 40-50 agenda items that were submitted by Commissioners, community members, Commissioner Dooley who took intense notes during public comment – this is not an exhaustive list and an invitation and a link on our website that if you have other agenda items to add to them. We will be working regularly to update that list. Item 12a – She thanked Henry Gage for the encouragement to organize this in a manner that might be digestible. What she attempted to do is take all 40+ of those items and group them into subject matters that we potentially could be organizing and creating work plans on committees. Everything that didn't occur to her, not that this is a final list, that could fall into a group she put under the All Category and the other groups based on both agenda items that were submitted – she asked Mr. Rus if he could send her a document that had the timeline of Measure LL

items and Richard Luna helped. She thanked and acknowledged them for going through Measure LL to make sure that we have the mandatory requirements in the document. She further spoke on the categories in the document. We could get into some standing committees, divide, and delegate some of this work. Let's get a work plan going.

E. Prather thanked M. Benson for her efforts/documents and makes everything understandable/digestible. He wants to go back, as he read this, his issue - lately he feels like our Commission suffers from a creditability issue and a lot of public comment does address some of that. We certainly know of some issues of our self but he thinks that part of the creditability issue stems from the fact that we are a year in and there are timelines, deadlines on things that we have not met and we are not ready to meet. For him, he feels like he gets caught up (and he is guilty too) on some of the other issues and not focused on what we are required by Measure LL to complete in that deadline. He would like us to focus on those things that are on deadline and he made a list based on M. Benson's list. We have to give our first annual written report, due 18 months after we were seated – that is six months from now. We need to get on that asap. We need to notify the Chief of what we require from her in her annual report; we haven't done that and we need to do that asap. We need to request for the City Attorney to give us semi-annual reports and have not done that and they have not given us a report because we have not asked for it – we need to do that. We need to notify the Chief of the criteria by which we will evaluate her – we need to give her a year's notice and we have not done that. To me, we have not done these things. His list is deeper and but he paused for a minute. Because we have not done these things, we lack creditability. We have the ability to ask the Chief to respond to us, to meet certain criteria, and we have not even given her that criteria – it is a year in and we need to do that. We have to complete a financial audit of this Commission by the end of 2019 and that needs to be on our calendar. He knows M. Benson will nod her head on this - by April 15 we budget issues need to be done and we are not ready for that. There other budget deadlines also due by February 13, 2019 and we are not ready for that. We need to hold some type of public hearing/symposium on issues related to the police department once a year and haven't even started that. For as much as we want to say we are a year in, we are just getting going, and everything else – we got our new interim Acting Executive Director and our staff member. Now is the time – let's not lose focus, let's keep the eyes on the prize – there are deadlines that we must meet. We should be myopic in our attempts to meet them. These things we need to give our full attention to. We need to make sure that everyone is trained; he doesn't know where that stands. Obviously, there are other things that concern him like conflict of interest edits, code of conduct edits, and everything else that are structural in nature. He doesn't know that the list is exhausted but at least in going through M. Benson's spreadsheets and these lists – these to me are the things that we should be absolutely focused on because this will (1) meet our requirements but (2) give us the creditability we need because there are collateral issues that he feels we are suffering from a creditability issue. We are not doing anything yet; this is real talk and we need to get to these things.

T. Smith added that we need our new Analyst engaged in helping us carry out some of these goals. We now have someone full time, dedicated to support us.

M. Benson said she has a proposal for that. The first step is to divide this work. Who is interested in what topics [Item 12a]. The Analyst can help us schedule out the things under the All category. If we figure out that the other items fall into these categories. Maybe Counsel can help us here. We have to get clear who is working with these and charge them with responding with a work plan and deadlines, we can then submit that to the Analyst and she can synthesize all of that into a series of

agenda items which will then hold those committees accountable for getting drafts, engaging the community, etc. before we bring it back to the full Council. She would like a result of this, not only work plans for each of these committees, but see six to nine months if not a year of agenda items mapped out. Of course, leaving space for more urgent issues but at least this makes us more proactive instead of reactive to build off what E. Prather was saying. That is her suggestion for using the Analyst – we task different Commissioners to work on different committees and respond by a deadline of here is when we will get these items back on this Commission’s calendar because we will have done our due diligence around the work. T. Smith asked if you want to roll through some of the top priority ones (we do not have the full Commission here today)? He asked M. Benson if she meant in terms of who is interested on which committee? M. Benson said yes and feel free to jump in and what committees are you interested in working on.

R. Jackson said she is interested in working on the Chief’s Performance Review. T. Smith said for that one, for the next meeting we are going to be sharing the Chief’s goals and her proposed evaluation and then we are going to respond to that. He expects that will also fall into the Personnel Committee – which he thinks is in progress. You, me and Harris are all part of it. As a group, we are going to review that.

R. Jackson said community outreach was in her corner before so she will pick it back up – she thinks that M. Ahmad and J. Dorado are also.

M. Benson - Can they be Ad Hoc Committees? T. Smith said that he is mindful and thinking of this Personnel Committee and we have a lot of stuff going on. It is going to be an active period for the permanent Executive Director recruiting. In addition to that, we have the Chief’s evaluation that will come up in the next meeting. He is mindful in making sure that we don’t overload people.

R. Jackson – in people digesting this; perhaps a more equitable way to document this. To look at a Doodle Poll listing the areas and letting people sign up for things so that we can figure out how quickly we can begin to move on them. We are missing several Commissioners who will be incredibly important in assisting to move this stuff together. Perhaps we can make sure that we have that engagement platform, etc. and get that out and report on December 27. Also, include the community as much as possible in some of this work; get more support to get it done.

E. Prather suggested that we ask or task the Analyst to make a list of those things which are governed by deadlines. For me, he needs to know what things have exact dates that we need to meet, whether they are budgetary, ordinance, etc. deadlines. We need a separate list (Analyst) compiled between the materials by M. Benson or himself. We need to make a separate list of non-deadline items and those can be prioritized (like outreach – asap; etc.). He thinks it is great to get into – what is he interested in – but frankly, the items with deadlines are everyone’s problem. We need to meet those deadlines now. It needs to be crystalized for everybody to see how daunting these tasks are. M. Benson gets it because she put the list together and he is starting to come around on it but he doesn’t know of the extra time we are going to have in meeting this list of things. Our Analyst could start to list under each category what are some of the steps that need to be taken so we can have a more robust list of deadlines. They are in here but embedded in other materials which makes them hard to understand. Have that at the next meeting, he won’t be there. That is for the Chair and Vice-Chair to start task out. If we got to get an annual report that was due already; if we got to get our annual report that is due in April 2019, to me that is all hands-on deck – that’s not who is interested,

everybody has to contribute.

M. Benson said that list already exists; she did not submit it here. There is a list from Mr. Rus and Mr. Luna and they are similar. She prefers having the Analyst work on calendaring them and identify people who will take leadership around those. She added that the Analyst support/identify people who can serve on these committees. Again, she is going to come back to Rules and Procedure – do these committees because they have multiple work items, she doesn't believe that they can be Ad Hoc Committees, they have to be formalized committees that then are under the Brown Act and Sunshine Act. T. Smith said it depends on whether or not these are temporary items or recurring items – if it is going to be something that is going to happen repeatedly, but we can go through each and figure out whether or not they can be done on an Ad Hoc basis, particularly when they come to an end – something that terminates that is the potential item. He thinks that we are talking about also some standing committees that we need in addition and two of the ones that we mentioned are Policy and the Budget. He strongly agrees with what E. Prather said about separating the deadlines versus things that are not deadlines because we must have some way to tackle all those projects and make sure we get them done. There is an urgency behind that which is important for us.

R. Jackson added to E. Prather's recommendation – She thinks it might be helpful to have our Analyst look at things like the Commission annual report - collect annual reports from Commissions across the country. We don't know what one might look like – to review and get ideas and then create our own.

J. Dorado suggested NACOLE and see who we can tap there and have them advise us on how to proceed (annual reports as well as some of the other areas - templates).

T. Smith said he will make sure that our Analyst watches this section of the video. We have given ideas for ways we can valuably use her time.

T. Smith said under Measure LL, mandatory activities – hold a hearing. We are thinking around dates if we are in favor of the topic. R. Jackson said that both suggestions are incredible. Measure LL does speak to racial profiling and we have identified under Data – Stop data under racial profiling. She believes the homelessness issue is incredibly urgent and so is the racial profiling. If we got the community particularly the Coalition willing to help us design/craft it, that perhaps we could schedule both and that way we can address the primary responsibilities that we have to this Commission but as well hear the cries of some other very urgent issues particularly specific to Oakland. T. Smith said that they also asked us for a point person. He asked J. Dorado if he could be a point person for the hearing. J. Dorado said he can do it initially but he is looking at tax season coming up quickly. He could pass it off to somebody around the end of January. T. Smith asked E. Prather. T. Smith said we are going to ride with you for the initial point person (J. Dorado) and then once you have to transition, to let us know. M. Benson said she would like to be the second point person. T. Smith asked J. Dorado and M. Benson to follow up.

M. Benson said she is not sure if there should be a motion - Clear that there is a next step that the Analyst make a specific list or to pull from the lists that are around the deadlines and collaborate with the Chair and the Vice-Chair to plug them in. She is concerned about continuing to kick the can down the road. The second thing - She would like to make a Motion that based on the criteria she heard from you Mr. Chair, she thinks the following Committees are standing committees and if we need to do some work between now and the next time, we need to move it to City Council but based on what she heard you say that things that are on-going would be

standing committees. Is that correct? Council Bazzano stated Mr. Chair was correct that Ad Hoc Committees are appointed for temporary, very specific purposes and it's usually comprised of only less than a quorum of the governing body. Ad Hoc Committees are not subject to the Brown Act so that's why it has to be less than a quorum. Standing Committees, they can be comprised of less than a quorum but they are typically subject to the Brown Act. If a Standing Committee meets, it would have the same noticing meeting requirements as this Commission meeting. M. Benson – Looking at this Item 12a, based on the types of items you are seeing on there, she is reading it based on her understanding and she is not an attorney, budget – seems to be a Standing Committee, that is an annual series of events. Community Outreach seems to be a Standing Committee, right? M. Benson asked what are the two standing committees we have? T. Smith said we have Personnel and Community Outreach Standing Committees. M. Benson – Data (looks to her like one of them); Policy (do we need a standing committee?). Can we get input on that now so she can work on it? Counsel Bazzano suggested that appointing standing committees is not on the agenda/not an agenda item – it might be better and more compliant with the Brown Act to have this discussion and then agendaize possible standing committees as a future agenda item and then when you have the full Commission here, you can discuss who would be appropriate on those standing committees. To answer your question, yes a lot of these seem like long-term, regular (like policy issues) rather than being for a very short-term purpose. T. Smith said we can put the Standing Committee discussions on the agenda. We got two standing committees that just went through; half way there.

E. Prather to reiterate fellow Commissioners – we need the list of prioritized deadline items. I feel like talking about Ad Hoc Committees, etc. which is fine, but it is a secondary item. We have things that we need to tackle. The Chair may need to create Ad Hoc Committees – three people to do this and go. He can't do anything else until we focus on the deadlines – they are overwhelming. The deadlines must be met and everything else is secondary. T. Smith suggested a workplan for the deadline dates for each who want to participate in the effort. R. Jackson said what might help with some clarification particularly for the Analyst is that we need those deadline driven assignments/requirements probably by next week. That way when we get to our December 27 meeting we will already have had the opportunity to take a look and perhaps sign up with her or however we want to do that so we have some proposals for moving forward. M. Benson will forward everyone the lists now to review; it has been done by Mr. Rus and Richard Luna.

T. Smith said the deadline focus is important in terms of prioritization. M. Benson agrees. She added to E. Prather's point that it is secondary but it is important. When you see the list, and map it out, the effect may come down. It is a lot of work. We need to calendar, and assign responsibility to the deadlined items (Agenda item for the next meeting). T. Smith said we will work on it together. Then look at the secondary items on it and start to organize them. She referenced Item 12(b) and said it is very hard to read. There are four or five retreat items and figure out how we will get facilitators. She and R. Jackson have reached out/outreach to some facilitators. She asked community members in the audience if they could outreach for facilitators. She further reviewed Item 4b. T. Smith said that if you know of facilitators, please contact M. Benson. R. Jackson – J. Dorado is serious about the community policing thing. Perhaps our Commissioners could send us, within the next week, facilitators that they recommend so that we can get that ball rolling as well because some of the challenges we have working together as a Commission could be addressed, etc.– facilitators.

b. Public Comment

Henry Gage III, Coalition for Police Accountability. He has an offer to make – he was speaking with Anne and Nina and a requirement for you is to hold at least one public hearing annually. As mentioned previously, we think you should hold that hearing on policing and the homeless. There are plenty of people who have some compelling stories to tell about how OPD treats them when they are just clearing. Housing and Dignity Village was just shut down. You might have heard at City Council the stories that came out of that shutdown. There was a trust gap between the department and the in-house communities in Oakland. We would like to provide a forum for that community to tell you their stories, if that is something you are interested in, we can take care of logistics but we need dates and we can do the rest. Let us know and we will get to work on that for next year. That is a timely issue we should discuss and get to work on immediately. Additionally, under the Ordinance, the IG position is to be hired by January 2019; not sure of the date. It would be nice to get that going. I am planning on applying for that position but there are things that position needs to do immediately (annual report on discipline, etc.).

Rashidah Grinage, especially with respect to the IG position, that person once they are on board could help advance a lot of the items that E. Prather was talking about, especially the budgetary ones as well as audits, etc. and contribute to the report that is required of you as well. The sooner you get that person on board, the easier it will be. Henry and Anne's proposal to do a hearing on homelessness is certainly pertinent and important. Not only for the obvious reason, because it is a crisis, but also because of what happened Tuesday night when Councilmember Kaplan asked Joe DeVries who is the point person for the City Administration whose direction he was taking. He declined to answer; provided no answer to who was directing him in his decision making to clear certain camps. That is unacceptable. A hearing should certainly go to the whole issue of what the role of the police is but who is calling the shots. Who is directing the police and on what basis? Where is the policy behind it? That would be a huge benefit to the community if you were to organize such a hearing. She had another point on the budget citation in one of M. Benson's charts in that overtime should be looked at as well. You had IAD budget but the whole overtime budget is something that requires huge scrutiny because they overspend by about 30 million a year and without authority, without authorization for the over spending. The IG might look at that as well.

Saleem Bey suggested that the Commission focus on what LL says in that the Commission's mandatory job is to address profiling. We just had a report by the Monitor that said profiling is still the issue. It says that DGO M-19 profiling is still an issue. This is your mission. It says in the LL that if somebody comes to you with a complaint of profiling, you mandatorily have to investigate it. We keep giving you evidence of profiling and he keeps seeing the can get kicked down the road. That should be one of the highest priorities. It was profiling, racial profiling by the OPD that put the OPD in the Negotiated Settlement Agreement in the first place that has been going on for fifteen years. It is failure to address racial profiling that created this Commission overwhelming with a super majority that said they want something done about profiling. You cannot keep ignoring profiling and keep dancing around these other subjects which are important but at the core of what's broken in OPD is racial profiling and particularly black people. Black people are up here telling you about racial profiling, begging you to do something about racial profiling, and yet he doesn't see it where you are going out of your way to make this happen. For the last two or three months, he has heard every reason why you can't do something about racial profiling. Why there is a technicality; why you can't address these things. Why you create Ad Hoc Committees and never come back to these Committees. These are the things that go directly to your creditability but

more than that, you are breaking the law if you do not address racial profiling when it is brought to you. You have credible evidence of racial profiling and we would like you to address that immediately.

Anne Janks stated that Henry and Rashidah said most of it. To make it clear – her understanding is that you fulfill your obligation to hold the public hearing with the hearing that we are suggesting. All that we need is a few dates, a point person would be nice to check in with, and we will do everything else. It is what she does in life – organizing things. The other thing is issues around evictions. When she talks to homeless folks, she hears a lot about their daily engagements with police officers. There is just a lot we need to hear more about so that you all concerned are thinking about what policies make sense. T. Smith said the request are for dates for the homeless hearing.

c. Action, if any

None.

**XIII. Review of Agency’s Administrative Closures or Dismissals**

Ms. Tom will report on the CPRA’s proposed dismissal or closure of complaints of misconduct involving Class 1 offenses. The Commission will consider whether to close the case(s) or direct CPRA to continue or reopen the case(s) and investigate the complaint in accordance with Oakland Police Commission Enabling Ordinance § 2.45.070(M).

a. Discussion

T. Smith said this is Ms. Tom’s first time at the meeting. T. Smith introduced Ms. Tom again, Acting Executive Director, and asked if she wanted to report on this item. Ms. Tom had comments. She proposed that due to her very recent appointment to this position, she knows that this is an issue that has created a lot of comments and concerns and because of that, her plan would be if you agree, is take this time to get up to speed on this issue, review the current reporting format we have, go over it with our Counsel, and come up with a form that addresses the concerns you have raised to the best of her ability. She agrees that to build public trust we have to have a transparent document. She will work with our Counsel to work on that document and create something that is thoughtful and well crafted. She doesn’t think it serves a good purpose to rehash a document that people have already said does not meet their needs or serve a purpose. She recommends taking the time needed to get there and look at what we need and come up with something different for you at the next meeting and prepare a presentation at that point in time, if that is agreeable. T. Smith thanked Ms. Tom. He asked if there was discussion.

b. Public Comment

Saleem Bey said having had experience with the CPRB, having experience with the reporting of the CPRB, having experience with the failure to investigate of the CPRB – He would say that the Commission needs to go beyond just the back and forth banner with Ms. Tom and delve down into what is the issue that caused the people to vote no confidence on the CPRB. At one time, it was the CPRB and the IAD. Those were the only two avenues that people could complain. If the people being the voters were satisfied with the job that Ms. Tom, Mr. Finnell, and Ms. Saupe, etc. – all these people who have been here for 10+ years were doing, then you wouldn’t exist. What he is asking, don’t just keep getting reports from the CPRB. According to the Charter, you can hire your own Investigators. You can

start from scratch. Stop hiring people from inside a broken system. That's what goes directly to your credibility. If you don't have any credibility, the people you are using that investigate don't have any credibility. There is a reason why there is no people here, especially no black people and black people are the most affected by OPD and are the exact reason why you were created. The reason why is because they don't have any confidence in the system that still is using the people that they were complaining to for the last 10+ years and they were closing the cases. He is only here because he knows what the truth is. Right? He knows what the documents say and it says that the police department racially profile people, that they continue to do it, and nobody is doing anything about it. Even though when you ask the police chief to talk on racial profiling, she comes up and says she can't talk about it because it is sealed. Not because it doesn't exist, not because she is saying I can't talk about it because it is sealed. That should get to your curiosity. What is it that sealed that the police keep doubling down on that you won't do it. If you were to investigate his case, even though case we complained about in July of this year, still doesn't have a number, still doesn't have any motion or movement on it. This was officially made to this Commission. That is in violation that has never ended up but then when you do say, okay we are going to investigate your case Mr. Bey, we're going to send it to the CPRA. How can you do that? The CPRA closed his case in the first place and the very last thing that happened, CPRB found it unstained and IAD found it sustained. That right there should go to the core of the credibility of the people you are dealing with that if police found themselves and admitted that they were sustained but the citizens' umbrella who is supposed to be looking after the citizens, found it unsustainable and now you have a new Interim Director to replace the last Director who was a failure and had to be fired. He would caution you to not go through the same motions to accept these same things from the same people – start new. Do something that the public is going to see that makes this Commission look like there is something different.

M. Benson acknowledged Mr. Bey and said she appreciates your willingness to push harder and be more transparent to the full extent of the law. It is important to say we hear you and she appreciated him saying that before the meeting and appreciate you naming that publicly now. It is clear that you get that we were dissatisfied with the level of transparency and lack of accountability in the previous reporting. She appreciates your coming out the gate to attempt to do that. Thank you.

- c. Action to approve CPRA recommendation for dismissal or closure of cases or reopen the investigation, if any

Counsel Bazzano wanted to clarify that there was no action taken on this item. T. Smith said that is correct.

#### **XIV. Agenda Setting and Prioritization of Upcoming Agenda Items**

Thomas Lloyd Smith will engage the Commission in a working session to discuss and determine agenda items for the upcoming Commission meeting and to agree on a list of agenda items to be discussed on future agendas.

- a. Discussion

T. Smith said let's talk about what is up next. The next meeting – Chief's goals and proposal for her review. M. Benson asked if that was written and drafted and is the Chief out of town for the holidays? T. Smith said he is not sure if she will attend.

T. Smith said we need to find out if OPD has a report on Joshua Pawlik and if they



do, we should get that report. He will check with them.

T. Smith asked M. Benson if she wanted to name the work planning part that we are going to engage in - Dates, priorities, names we are going to put against them for the work planning portion? He is reciting E. Prather's urgency.

M. Benson said review, approve and assign items having deadlines under Measure LL.

Review and approve and assign other critical items for non-deadline agenda list. Are there other items that are not under Measure LL?

Review, approve, and assign standing committees and/or Ad Hoc Committees for outstanding agenda items like budget, community outreach, data policy, personnel, etc.

Review facilitators for retreat, if we have them.

Follow up with Ms. Tom regarding a new and more detailed report on closing out cases. She asked Ms. Tom if two weeks are sufficient or do you need longer than that? Ms. Tom said she will see where she is at and will make an effort to get that done in two weeks. She believes that if there needs to be a continuing discussion, she is open to that. As long as you are willing to work with me and have patience, she is definitely willing to try. If the first product doesn't work, she will continue to try to get a product that is agreeable to the rest of the Commission. T. Smith said great.

M. Benson said that those were the things she heard.

b. Public Comment

Saleem Bey encouraged the Commission to move on the Mission that they were created on. One of the issues that he wants to bring before the Commission is he and his family have been living in Oakland since 1968. If you were a black person living in Oakland in the 1960's, 1970's, or 1980's, it was regular for the police to come to your community and call you the "N" word and snatch people out of their cars - men, women, children. It wasn't until the NSA that OPD acknowledged there was an issue. That was in 2003. The black community has been terrorized by OPD since this time he has been telling you that he can speak to directly. Right? He had family members beat up for nothing. Right? He has been stopped in a car, multiple times with fake things about your lights out and they aren't out. When he comes, and speaks to you about these things, about racial profiling, these are things that we live. This is a horrendous, oppressive environment to live under if you have to go out of your house and be afraid that some person who doesn't live in Oakland and doesn't like you because of the way you look. This is what you are here for. If somebody comes up to you, this is a very real and raw thing that needs to be addressed right now, racial profiling - don't believe him, believe the Monitor. The Monitor says the exact same thing. Don't believe the Monitor, Professor Eberhardt says the exact same thing - racial profiling. When a black person or a black man gets up here, a lot of times it is easy for people to look down and be condescending and say, well you know you aren't a lawyer or you are not saying these things. He is telling you about real experience and if you never have been profiled, you should be breaking your back to change the profiling thing if you are a Commissioner. If you are not doing that, then he hopes you can't sleep and burn where hell is.

Henry Gage thanked E. Prather specifically – statement you made about needing to focus on the required tasks under Measure LL – it is completely on point. There are several things you need to do and that need to be done now. He is looking forward to seeing the results of the work plan you pull out and seeing what happens when the staff fully gets up to speed. This Commission has had a problem for a while. You have part-time work, full-time need, and clearly there is not enough man hours to go around. He would like to see that problem dissolve and he can see a path forward to doing that. Thank you for drawing attention to that problem and looking for ways to solve that.

Nino Parker, homeless Green Team, black homeless activist. He agrees with Mr. Bey. The darker you are, the more you get stopped. He will be 65 on Saturday. When he was 10 years old, it started. He has had 55 years of racial profiling. He had a motorcycle he bought brand new. The first question he was always asked when stopped on his motorcycle was whose motorcycle is this. He grew up in a neighborhood in San Francisco that was a melting pot type of neighborhood. In the later years, the neighborhood started to change. His mom got an alarm on the house. One night he came to his own house, and the alarm went off and he was held up at gun point because the neighborhood had changed. When he was in his own neighborhood where he grew up, people would ask him what are you doing in the neighborhood. He said he grew up here. He is dealing with the homeless issue but racial profiling is hard. He has a 11-year old son who is coming up in the same world. We got to change that. It is so day-to-day; it must stop. He has been stopped more than him because he is older than him – just for nothing. T. Smith thanked Mr. Parker.

c. Action, if any

None.

## **XV. Adjournment**

MOTION to adjourn (R. Jackson) and seconded (J. Dorado). The vote was Aye: 5 (Benson, Dorado, Jackson, Prather, and Smith); Opposed: 0; Abstained: 0. Commissioners Ahmad and Harris are not present. The motion passed unanimously.

The meeting was adjourned at 9:18 p.m.