

MINUTES
PUBLIC SAFETY COMMISSION
March 31, 2010
Austin, TX

The Public Safety Commission met in Austin, Texas on March 31, 2010. Attending the meeting were Chairman Allan Polunsky, Commissioners C. Tom Clowe, Ada Brown, Carin Barth and John Steen. A quorum was present for the meeting. DPS staff members and guests were also present.

Call to order

The meeting was called to order by Chairman Polunsky at 10:30 a.m. All members were present. Proper notice had been posted.

Approval of Minutes (00:47 indicates time stamp from audio)

A motion was made by Commissioner Barth and seconded by Commissioner Steen approving the minutes for the February 18, 2010 meeting. Motion carried unanimously.

Public comment (01:17)

There were no public comments

New Business (01:50)

A discharge appeal hearing was held on DPS non-commissioned employee, Joseph Garcia. After reviewing all of the evidence presented at the hearing, the Commission found that there was just cause to discharge Joseph Garcia. **A motion was made by Commissioner Brown and seconded by Commissioner Clowe affirming the Director's decision to terminate Joseph Garcia. Motion carried unanimously.**

Director's Report (02:05:50)

Director Steven McCraw provided a detailed report aligning current status with regards to the Deloitte major recommendations. His checklist included the restructure of DPS which included the organizational functions, strengthening the Regional command, establishing the new leadership team, improving strategic planning, improving communications and establishing a comprehensive security program by creating the Intelligence and Counter Terrorism Division, creating a human resource strategy, overhauling financial processes and systems and creating a customer-focused management structure – all finalized or well underway. Additionally he stated the turnaround time for issuing concealed handgun licenses had improved. He provided the future priority initiatives of the agency including: salary structure, enterprise agency technologies, Super Bowl 2011, statewide criminal enterprise initiative, border security threats, public corruption, model policies, disciplinary matrix, and modernizing the performance appraisal system, stating the DPS transformation is a work in process. He further commented DPS was doing better than they were before, and improvements would continue. Chairman Polunsky praised the Director for the progress made. He stressed increasing salaries in the Driver License Division would be something he would like to see made a priority in the next biennium. Commissioner Steen concurred and congratulated the Director.

New Business (Continued) (02:26:28)

Major Rhonda Fleming, the Equal Employment Opportunity Officer for DPS presented the sexual harassment, Section 18.25 policy, and how the program was disseminated to the DPS employees. Commissioner Steen inquired what zero tolerance meant to Major Fleming of which she replied it meant zero tolerance for any violation of the EEO policy. He asked Major Fleming of her opinion of on-line courses stating his concern was the refresher course every two years and if it was being conducted. Director McCraw stated he felt everything that needed to be done was, but DPS could always do things better, since this was a priority for the Department. Commissioner Steen spoke about bringing in outside expertise to teach a course, starting with the leadership. The Director stated he would be willing to consider. Commissioner Barth asked if the program in place was adequate. Major Fleming stated yes. Commissioner Barth stated she got concerned when looking at outsourcing, especially with 8000 employees. Commissioner Clowe requested Major Fleming provide the trends. The Major stated there were 113 complaints (37 sexual harassment of which 15 sustained) in 2009; and 10 YTD in 2010. Commissioner Clowe stressed that what Major Fleming was doing was really important. Major Fleming felt not all were coming forth to report and that was her concern.

(02:46:48) Chairman Polunsky called upon AD MacBride for the report on construction of a building and facilities through the Texas Public Finance Authority regarding the construction of a crime lab in Laredo. AD MacBride presented and requested action on 1) the financing agreement resolution and 2) reimbursement resolution. Dwight Burns, the Director of the Texas Public Finance Authority stated if the Commission moved to approve the financing, he would recommend to his Board moving forward with bond issuance and authorizing the temporary use of \$610,000 in agency funds that will be repaid to the agency with bond funds which allows the agency to start work on the project in advance of the bond issuance. AD MacBride read the requested action items regarding the resolution authorizing a request for financing and the execution and delivery of documents required to affect such financing, for the record at the request of Commissioner Steen. **A motion was made by Commissioner Steen and seconded by Commissioner Barth to approve this resolution as read. Motion was passed unanimously.** General Counsel Platt read the resolution declaring expectations to reimburse expenditures with proceeds of future debt, for the record. **A motion was made by Commissioner Barth seconded by Commissioner Steen to approve the resolution as read. Motion was passed unanimously.** Chairman Polunsky thanked the Director of the Texas Public Finance Authority for being with them today. (Note: Both of the approved/signed and attested resolutions are attached and a part of these minutes.)

(03:03:10) Inspector General Collins introduced Deputy Inspector General, Kent Radney and Lt. Jay Alexander from the OIG office. He provided status on the ethics hotline implementation, which had been approved and was in process of being set up. Commissioner Barth stressed getting a process in place for the hotline to work effectively. Chairman Polunsky asked if IG Collins could justify his headcount request submitted for action. Commissioner Barth explained her hesitancy in staffing before knowing the workload. IG Collins had DIG Radney provide the statistics on cases which he stated clearly proved the current structure and workload being on the severe low end. Discussion followed on the current investigative scenario and headcount. AD MacBride provided the fiscal note adding 10 new FTEs salaries/longevity, and budget request of the added IG expenses including off-site rental, and utilities totaling an additional \$320,070 in FY2010 and \$587,959 in FY2011. A lengthy discussion ensued with regards to moving the OIG office off-site, due to lack of space at headquarters. Off-site space would provide the added headcount space, the capability to centralize training and benefits for individuals visiting the OIG without reluctance, plus boost morale. **A motion was made by**

Commissioner Barth seconded by Commissioner Steen to approve the expanded scenario budget as proposed for FY2010 and FY2011 with additional contingency funds of \$25,000 available to draw on, if necessary, to fulfill the gap in moving OIG off-campus. Motion passed unanimously.

Executive Session (04:10:43)

The Commission went into Executive Session to discuss security issues, to consult with legal counsel regarding pending or contemplated litigation or settlement offers or to receive legal advice on items posted on this agenda; deliberation regarding real estate matters; consideration of any other items authorized by law, including personnel matters, the Director's action of discharging employees as identified in this agenda; and ongoing criminal investigations. Executive Session began at 2:40 p.m. and ended at 5:15 p.m.

Ongoing Business (04:14:19)

Commissioner Barth had nothing to report on the Audit and Review appointment.

Director McCraw proposed the appointment of Joe Ortiz as Capitol Commander reporting directly to Deputy Director Lamar Beckworth. **A motion was made by Commissioner Clowe and seconded by Commissioner Barth to approve the appointment. Motion passed unanimously.**

Director McCraw requested advice and consent that John Jones be made permanent Intelligence & Counter Terrorism Assistant Director. The Director then proposed RenEarl Bowie being made the permanent Regulatory Licensing Assistant Director. Chairman Polunsky consented.

AD MacBride presented the FY2010-11 budget specifically addressing the Attorney General fees, which all state agencies are obligated to pay. **A motion was made by Commissioner Steen seconded by Commissioner Barth approving the revisions to the budget as specified. Motion passed unanimously.** AD MacBride advised the Commission that the \$1.6 million for the driver license salary civilian model be returned back to the budget from the variance total. Commissioner Clowe inquired if these monies could go towards increasing salaries for the driver's license technicians, a highest priority, according to Chairman Polunsky. This being a one-time occurrence it was decided not feasible to use these funds for those increases.

AD MacBride stated there were no items being requested from seized funds for the month and provided the new balance of \$9,237,000 with \$6,876,299 available for approved projects.

DAD White provided an update on recruitment efforts resulting in favorable numbers of 126 for the Advanced School and 509 for the 18-week school for a proposed 120 slots at the Academy. He stated the website would be up by May 5th and that a Hummer was seized which would be used for recruit efforts. Commissioner Barth inquired of the fiscal impact of doubling the quantity in the 18-week school which AD MacBride affirmed it would fit into the budget.

General Counsel Platt provided information with regards to scheduling the Public Hearing on the Driver Responsibility Program proposed rule. The date was proposed and decided to be April 26, 2010. The time and place will be confirmed at a later point dependant on if the meeting could be conducted at the Capitol. GC Platt proposed him serving as hearing officer to accommodate the Commissioners schedule. Commissioner Clowe reminded the other members of the

exposure to the Commission conducting as an Open Meeting rather than hearing, Commissioner Steen concurred.

Diamond Jubilee Committee Chair Barbara Hinesley provided an update on the Diamond Jubilee and website. The agenda of the day's events was displayed. Ms. Hinesley presented each of the Commissioners a commemorative coin and Diamond Jubilee logo pin. Commissioner Steen inquired about an update on the pistol, which Ms. Hinesley stated at a later date the secure, password required website would be up and running. Chairman Polunsky asked DAD White to tie the recruitment to the Jubilee events, which he responded events were in place.

Reports (05:03:21)

There were no additional reports by the Commission members

There was not an Audit & Inspection Report

No additional reports were necessary from Finance, Administration, Criminal Investigation, Driver License, Emergency Management, Government Relations, Highway Patrol, IT, Intelligence & Counter Terrorism, Law Enforcement Support, Office of Inspector General, Regulatory Licensing or Texas Rangers

Consent items (05:04:56)

Commissioner Steen addressed the possibility of transferring discharge hearing appeals. He asked if they could be held at special meetings rather than monthly meetings with three Commissioners instead of five present. GC Platt stated he would look into this and provide details after considering several different options. Chairman Polunsky stated that an attempt had been made last session to change the process; however, it was rejected by the Legislature feeling the Public Safety Commission should be involved.

A motion was made by Commissioner Clowe and seconded by Commissioner Brown to approve Consent Items A, B, C 1-4. Motion passed unanimously.

Consent Item D, was determined as an information item, per Commissioner Barth. In the future the contracts for review would be a separate agenda item. She further complimented AD Fulmer stating the Contract Review Board was working effectively. No approval requested.

Items for future agenda (05:10:47)

Commissioner Brown requested proposed changes to the promotional process
Commissioner Barth requested the continuing update on the Audit and Review appointment
Commissioner Steen asked that Review of Pending Contracts be an agenda item and not a consent item due to action not being required.

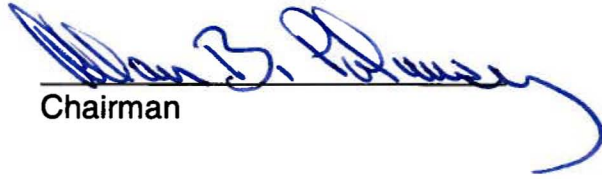
Future meeting date (04:51:06)

The next meeting of the Public Safety Commission was set for April 27, 2010, starting at 9:00 a.m. to provide for conducting the Davis building dedication. The regular Public Safety Commission meeting would follow in Austin, Texas.

(05:12:51)

There being no further business, the meeting was adjourned at 6:12 p.m.

Read and approved this 27th day of April, 2010.


Chairman

IN THE MATTER OF

THE APPEAL OF DISCHARGE OF

JOSEPH GARCIA

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BEFORE THE

PUBLIC SAFETY COMMISSION

IN AUSTIN, TRAVIS COUNTY, TX

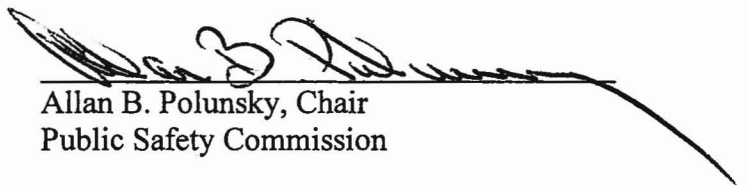
ORDER

BE IT REMEMBERED that the Public Safety Commission convened to hear the appeal of discharge of Joseph Garcia, on the 31st day of March, 2010. Mr. Garcia received adequate notice of the hearing on this matter and did appear in person and through counsel. Pursuant to §411.007, Government Code, the Commission proceeded to hear evidence in the above-captioned matter.

After reviewing all of the evidence presented at the hearing, the Commission finds that there is just cause to discharge Joseph Garcia and affirms the Director's decision in this matter.

On motion of Commissioner Ade Brown, seconded by Commissioner C Tom Clower, the discharge was affirmed.

ENTERED AND SIGNED on the 31st day of March, 2010.



Allan B. Polunsky, Chair
Public Safety Commission

**A RESOLUTION
AUTHORIZING A REQUEST FOR FINANCING
AND THE EXECUTION AND DELIVERY OF DOCUMENTS
REQUIRED TO EFFECT SUCH FINANCING**

Whereas, the Texas Public Finance Authority (the "Authority") is authorized to issue general obligation bonds to finance the cost of certain projects for the use and benefit of the Texas Department of Public Safety ("Agency") pursuant to Article III, Section 50-g, Texas Constitution; Chapter 1232, Texas Government Code, as amended; and General Appropriations Act, Article IX, section 17.11 and Article V (Department of Public Safety), Rider #57, 81st Legislature, R.S. (2009), (collectively, the "Authorizing Law").

Whereas, the Agency desires and intends to request the Authority to finance the cost of the project as permitted by the Authorizing Law; and

Whereas, the Agency recognizes that in order to finance the cost of the project, the Authority may issue short term obligations, general obligation bonds, either or both ("Obligations") in an aggregate principal amount sufficient to finance project costs in the estimated amount of \$6,100,000, plus the costs of issuance and related administrative costs, if any, which will be determined at the time of issuance; and

Whereas, the attached form components of a Request for Financing (the "Request for Financing"), from the Agency to the Authority, which include a detailed description of the project to be financed for the Agency ("Project" herein) and a proposed expenditure schedule, are presently before the Texas Public Safety Commission.

NOW THEREFORE BE IT RESOLVED by the Texas Public Safety Commission that:

Section 1. The purpose of the financing is to provide funds sufficient to complete the Project, and the financing thereof is appropriate at this time. Accordingly, the execution and delivery of the Request for Financing to the Authority pursuant to the Authorizing Law is hereby ratified, approved, and confirmed.

Section 2. The Director of the Agency and his designees are hereby authorized, empowered, and directed to:

- a. sign and deliver any and all documents necessary or desirable to effect the financing and provide the Project, which documents may include, but are not limited to, a Memorandum of Understanding and a Financing Agreement between the Agency and the Authority;
- b. cooperate with the Authority and its consultants to prepare an Official Statement in connection with the sale of the Obligations; and


- c. take any other action necessary to assist in such sale.

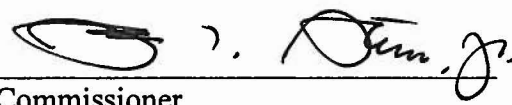
Section 3. All actions not inconsistent with provisions of this Resolution heretofore taken by the Agency, its officers, employees, agents, or consultants, directed toward the financing of the Project and the issuance of the Obligations, are hereby ratified, approved, and confirmed.

Section 4. The officers and employees of the Agency shall take all action in conformity with the Authorizing Law to effect the issuance of the Obligations and complete the Project as provided in the Agreement and to take all action necessary or desirable or in conformity with the Authorizing Law for carrying out, giving effect to, and consummating the transactions contemplated by the Memorandum of Understanding, the Agreement, the Obligations, and the Request for Financing, including without limitation, the execution and delivery of any closing documents in connection with the closing of the Obligations.

Section 5. This Resolution was adopted at a meeting open to the public, and public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

Adopted by the affirmative vote of a majority of the Texas Public Safety Commission present and voting on this 31st day of March, 2010, in Travis County, Texas.


Chairman

Attested: 
Commissioner

**RESOLUTION DECLARING EXPECTATION TO REIMBURSE
EXPENDITURES WITH PROCEEDS OF FUTURE DEBT**

Whereas, the Texas Department of Public Safety (the "Agency") intends to make a capital expenditure of approximately \$6,100,000 for construction of a building and facilities to create a Crime Lab in Laredo, Texas, as authorized by General Appropriations Act, Art. IX, §17.11 and Article V (Department of Public Safety), Rider #57, 81st Legislature, R.S. (2009)) (the "Project"), which is to be funded in part with proceeds of bonds to be issued by the Texas Public Finance Authority (the "Authority") as authorized by Texas Government Code, Chapter 1232, as amended; and

Whereas, the Agency intends to expend an amount not to exceed \$610,000 (the "Expenditure") for Project costs such as construction, engineering, telecommunications, fixtures, furniture, equipment, construction contingency, design professional fees, surveying, geotechnical, site improvements, construction material testing, HVAC test and balance testing, procurement and contract administration; and currently desires and intends the Expenditure to be reimbursed from proceeds of bonds to be issued by the Authority for the Project; and

Whereas, the Agency and the Authority desire to preserve the ability to reimburse the Expenditure with proceeds of tax-exempt obligations;

NOW THEREFORE, THE TEXAS PUBLIC SAFETY COMMISSION HEREBY RESOLVES that it reasonably expects and intends to reimburse the Expenditure with the proceeds of tax-exempt obligations to be issued hereafter by the Authority, and this Resolution shall constitute a declaration of official intent under applicable federal tax regulations.

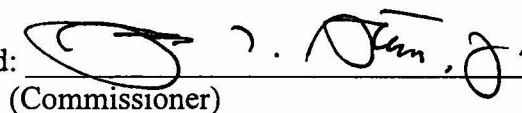
Be It Further Resolved that a copy of this resolution will be included in the minutes of the Texas Public Safety Commission meeting.

This Resolution will be made available for public inspection at the Authority's office at 300 W. 15th Street, Suite 411, Austin, Texas, and at the Agency's Finance office at 5805 North Lamar Boulevard, Austin, Texas.

Adopted by the affirmative vote of a majority of the Texas Public Safety Commission present and voting on this 31st day of March, 2010, in Travis County, Texas.


(Chairman)

Attested:


(Commissioner)

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IN THE MATTER OF § BEFORE THE

THE DISCHARGE OF § PUBLIC SAFETY COMMISSION

PROBATIONARY EMPLOYEES § IN AUSTIN, TRAVIS COUNTY, TX

Advice and Consent

In accordance with Government Code Section 411.007(f), the Director found that the following named probationary employees were unsuitable for continued employment in the Department of Public Safety. The Public Safety Commission has consented to the discharge of these employees:

Employee Name	Employee Title/Division	Date of Discharge
Robert Lerma	HUB Coordinator, Administration Division	02/17/10
David Hartley	Probationary Trooper, Highway Patrol Division	02/26/10

Approved:

Allan B. Polunsky, Chairman
Public Safety Commission
Date: March 31, 2010