

## **City of Spokane Office of Police Ombudsman Commission (OPOC)**

Special Meeting Minutes for October 10, 2017

### Welcome

Commissioner Deb Conklin welcomed the public and reminded everyone that because this is a special meeting, nothing can be added to the agenda. Commissioners Ladd Smith, James Wilburn, Jr., Jenny Rose and Colleen Gardner were present.

Conklin said she would welcome a vote on the agenda. There was a brief discussion. Gardner raised a question about agenda item #4, the Coordinator/Administrative Specialist Update, saying that it's her understanding that the Ordinance does not provide the Commission with the authority to hire or fire or intervene in that process, and since we don't have the authority or proper guidance for civil service, she'd like to make a motion to have that item removed.

Conklin said she realized Mr. Szambelan has drafted an opinion that he does not believe the Commission has that authority. Mr. Beggs has had a conversation with City Legal, and says it's not as clear as that letter made it sound, and in addition the new Ordinance did have very specific language about the Commission hiring their own staff person. One possibility, if the Commission is still interested in hiring their own staff person, is for that piece of the ordinance at least to get done promptly. Since the Civil Service staff are here, and there still is the potential to have that position, she thinks it would be helpful for the Commission to see what that looks like as part of our decision of whether to move in that direction.

Smith seconded the motion. More discussion took place. Rose said she had some questions about the process, and that's why she appreciates them being here tonight.

Conklin said if the Commission votes as a Commission that we would like to have that position to continue to answer to the Commission, then City Council appears to be willing to move in that direction because the proposed ordinance has that in it.

There was a vote and 2 Commissioners voted to keep #4 on the agenda, 2 Commissioners voted to remove it, and 1 Commissioner abstained. Wilburn said if we decide the Commission has the authority to hire, and it's incorrect, what's our next move? Should we make this motion now and not understand where we should be, or should we skip it?

Conklin said that's a separate motion from learning what we can from the Civil Service staff; just because we hear their presentation doesn't mean we have to make that other decision tonight. She said the Civil Service staff are here to help us understand the process.

Wilburn said since it's 2 to 2, he needs to know more about what divides us. Smith said he sees a legal representative of the City saying the OPOC does not have the legal authority to hire and direct the Coordinator, then we have a City Councilperson who says that we can. He said he tended to lean toward the City Attorney. Rose said she thinks we're getting into a conversation that is not the right place right now. We had a motion, we spoke to the motion, we had a vote, the Chairperson should break the vote and we should move on.

Conklin said since the members of the Civil Service Commission came tonight and are prepared to give a presentation, she is going to go ahead and say we'll do the presentation because we may need this information and we should hear it while they're here and not make them come back in the future.

### Agenda

Rose made a motion to approve the agenda. Smith seconded. The motion passed 4 to 1.

### Ombudsman Report

Bart Logue said OPO attended 11 community events. He pointed out the K-9 event that was held at the SPD Police Academy was beyond well-attended, and was well done.

Luvimae Omana attended the COPS material presentation. She is a member of the COPS Board of Directors, and attends monthly meetings. OPO met with Nicole Bishop from the Spokane Human Rights Commission, as well as Aaron Tilbury from the Jonah Project. They are looking collaboratively at a joint

recommendation for SPD in regards to human trafficking and how to interview victims. He thanked John Lemus for being at the meeting tonight.

OPO had 4 OPO interviews this month, which resulted in 3 new complaints; 1 was for excessive force, 1 was for unlawful search and seizure, and the last was for inadequate response. They are going through the Internal Affairs (IA) process now.

OPO took 3 referral complaints; 2 internal to SPD and 1 for the County Sheriff's Office. He reviewed 4 cases, which he certified, and he did not send any back. He attended 6 IA interviews. He reviewed 10 special cases which included use of force, pursuit and collision incidents. There was an officer-involved shooting in Spokane on September 18<sup>th</sup> at the Walmart by Sinto and Monroe. There was another on October 4<sup>th</sup>.

OPO went through a process this month we are counting as a mediation. Through the process of a conversation with the Sergeant, the citizen did not want to continue with the complaint. The Sergeant went a step further by putting together a training bulletin and sharing it with all the SPD sergeants, so it could be shared with patrol officers. Because it met the all the criteria of a mediation, Logue recommended to Chief Meidl that instead of saying "administratively closed or suspended", that they close it as a mediation so it shows that SPD did more work on this than simply looking at it.

OPO had 16 meetings with SPD, and meetings with multiple Council Members and Commissioners. Logue said that in September there was a personal threat in OPO, where an individual threatened to use deadly force in our area. We've taken it seriously and reported it to all the right authorities. We're talking with Ed Lucas in regards to security on the first floor; a design team will be looking at it and hopefully we'll have a better answer for security procedures. He said OPO spent an inordinate amount of time on Public Records Requests. Smith said he was glad to hear that a design team is looking at the security for the first floor.

Conklin asked Luvimae Omana if she had anything to add to the report, or if it was done. Omana said that as a follow-up to the threat, she reported the incident to Crime Check and they took action.

Conklin said in the past when we've gone to NACOLE, we've come back and done a brief report. This year she was hoping that people would give more like a 10 to 15 minute presentation for the public on something we learned that we think will be helpful for them. She's assuming that no one is prepared for that this evening, but wanted to be sure she didn't overlook it.

Conklin thanked the Civil Service staff for coming to tonight's meeting. Chief Examiner Gita George-Hatcher said as she understood it, the Commission is interested in what the process is when Civil Service creates a position and recruits for a position. A department head or appointing official will typically come to Civil Service and request creation of a position, or recruitment for an existing position and there is an engaged discussion regarding the specifics. If there is an incumbent in that position, Civil Service would normally survey that position. A lot of times when a department head or hiring official comes to Civil Service it is with the intent of classifying a position where the work seems to be ongoing as was the situation in the case of a recent classification in the Office of the Police Ombudsman.

She said the City has temporary and seasonal positions, and project positions which are not part of the classified service. When a survey is conducted, it is detailed and looks at all of the tasks, functions and the qualifications needed for the position. Civil Service sends out a position description questionnaire to have the incumbent keep a 10 day log of their work, then we discuss it with the incumbent and the appointing official. Then we look at whether there are any existing classifications within the classified service that would fit those types of tasks and descriptions. If so, then we would make a determination on the particular classification to which this body of work needs to be assigned. If there is not an existing classification, then we research to see if we need to develop a new classification, or should we tweak an existing classification to include some minor functions, and then proceed. If we revise a position, we present it to our Civil Service Commission, and make them aware it was revised.

If we re-title a position, or adopt a new classification, we review the job description, task, functions, qualifications, etc. and after labor management concurrence, we present it to the Civil Service Commission for adoption. Then we work with the appointing official regarding the time frame for recruitment, and

place the request into a queue. We have our testing calendar for the year, and in the middle of that when we receive urgent requests due to turnover and unanticipated vacancies, we work those in.

We recruit and advertise the position, working with the appointing officials to find out what the best places are for advertising. We advertise in a wide variety of ways. All our applications are received on-line. Our analysts review the applications to make sure the candidates meet the qualifications before the applicants self-schedule for the testing process. The testing process varies depending on the type of position; some have written tests, combinations of written tests and oral boards, or combinations of written tests and training and experience evaluations, and those are graded and ranked. There are some positions for which performance tests are required, like firefighters, police officers and clerical positions where you have to be able to perform at a certain level of accuracy or speed. A person has to pass the performance test to pass along in the process for these types of positions.

Ms. George-Hatcher asked the Commissioners if they had any questions. She answered several questions about how the salary is decided, when a new classification is created, how and when the tests are given, how the lists are ranked, the difference between part time and full time positions, how people get called for interviews, and how the positions are filled. The Commissioners thanked George-Hatcher for her time.

Conklin said the information from Mr. Szambelan and Mr. Beggs is fairly recent, and because this is a special meeting, she doesn't believe we should move with either of those suggestions. She said Mr. Beggs did indicate he would be interested in hearing both from OPOC as a unit and individual Commissioners about whether there's any sense that someone would like the Council to take that piece of the new Ordinance and move it forward more quickly. Gardner said she already has a meeting scheduled with Council Member Beggs.

Conklin asked for the list of people signed up for Public Comment. Gardner said she would need to leave the meeting at 7:00. Conklin introduced Tim Nault as the Commission's Counsel. She gave some background on the change of Counsel, and said she received an email from City Legal that they believe we can work with

Kirkpatrick and Startzel until the end of the year and then there will be a new contract at the beginning of the year. She thanked Nault for being here.

Nault said he graduated from Gonzaga Law School, and he clerked for judges in state and federal courts. He then joined Kirkpatrick and Startzel, practicing primarily in civil litigation. Some of that litigation is relevant to the Commission, like civil rights claims, invalid searches and seizures, invalid arrests, and prisoner litigation. He looks forward to working with all the Commissioners and the Commission itself, and carrying out its duties. He said he appreciated Mr. Wilburn's question about the power of the Commission vis-à-vis the Civil Service Commission question, and that's exactly what he's here for. He will try to get up to speed on that as quickly as he can and hopefully have some good advice for them.

### Public Comment

Alan McDowell thanked Conklin and Marty Huseman for their work, and said he appreciated all they've done. He introduced himself and described the Dialectical Receipt Filer and said it is a very effective product. He said he talked with a former VA social worker who explained the importance of treating an individual calmly and professionally.

Instead of using 'snapshot to 911' like he has talked about, he's planning to use on-line procedures for uploading files. He said it's important that police officers know that their reports are actually contributing to a diagnosis; a lot of times the psychiatrists don't listen to anything but what the officer states.

He also said that it's important for an individual to have civil liberties and have the proper diagrams to get to the point and explain complicated situations like domestic violence and family disputes. He thanked the Commission.

Mariannne Torres introduced herself and said she lives here in Spokane. She heard some dismaying news about commission and hopes this is the place to share it. She was deeply involved in police accountability work here in Spokane for many years and she thanked the Commissioners for what they've done to further the work of much-needed civilian oversight to our police department. The news that a very strong voice on this Commission, a voice of integrity and determination may not be reappointed is very distressing to her and to many

others in our community; people who have worked with Deb Conklin for a long time and have seen what she is capable of and what she can achieve. She worked with Conklin for some years through SPARC and Conklin was always the person who asked tough questions, inconvenient questions, and pushed the work further. The Commission and the City of Spokane will be greatly diminished by the loss of this voice.

After all these years that she's put in on this work, and the high hopes we had after the Ordinance was passed, and the people of Spokane spoke very loudly about the need for civilian oversight of the police department, she finds herself very disappointed that this vital voice may not be heard on this Commission. She wants to take this time to thank Deb Conklin for the stellar work that she has done, not just on this Commission but in the community at large. Deb Conklin is present in many of the issues and many of the situations that need attention. She just wants to express her disappointment that Conklin won't be here. If she's spoken out of turn, she apologizes, but this was the best place she thought to make those thoughts known. She thanked the Commission.

Brian Breen asked about the ground rules; if you get to speak about the items when they come up, or if this all the time he has to discuss things. Conklin said the practice is a little different than City Council's. We have this forum where people can address items that are on the agenda or not. But also, if we get to an item on the agenda where there seems to be some energy and the public wants to have a comment, then we do allow comments on other items on the agenda at the time they come up. Once again, it's time-limited.

Breen asked her to explain 'lots of energy and stuff' because he's got a lot of energy about one of these. Conklin replied that so far, we have been able when someone has wanted to speak to a specific issue, to permit them to speak. Breen asked Conklin if she would allow him to speak to issue #10 since he is directly involved in it. Conklin said yes, and Breen thanked her.

He said the Civil Service rules are tested, and they're on-line if you'd like to read them. One of the important things to understand about the Civil Service process is that when you test, you have to pass the test. Another thing you have to understand is that they have to be very careful that there isn't anything discriminatory in the testing, or sexist, or anything like that. He doesn't know

how she [George-Hatcher] felt about the emails she received, but maybe that was a complete lack of understanding about the Civil Service process.

### 2016 OPOC Annual Report

Conklin thanked Huseman for her work on the report and shepherding it through the process. Conklin thanked Logue for offering to make the report professional looking, and she thanked everyone who worked on it. She said Huseman has copies tonight, and they are available in the office if anyone wants one. Huseman thanked Ms. Omana for providing significant review, and she recognized Mr. Budke from Reprographics. Conklin thanked Ms. Gooler and all the people from Reprographics.

### Reports of Commissioners on Significant Community Meetings Attended, Education, and Community Outreach

Conklin asked Commissioners to sign up for a meeting date to give a presentation about the NACOLE Conference. She and Gardner will present in November, and Smith will present in December. Gardner said on October 26<sup>th</sup> she will be facilitating a Community Conversation with Sheriff Knezovich and on November 14<sup>th</sup> she will facilitate the 5<sup>th</sup> Community Conversation with Chief Meidl. She's going to ask to be on the Community Assembly for November.

Wilburn explained that he's still getting his feet wet as a new member of the commission. He explained that he needed to become more familiar with the commission and its process and that is why he abstained on the previous vote. Wilburn also discussed attending NACOLE and that it was a very informative conference. He also did a ride-along and learned a bit. He saw how well the police coordinate when dealing with issues.

He described a home that was broken into, where a television and other items were taken. The owner thought the thief may have some mental issues. The police handled it very well; they arrested the suspect without escalating the situation, and returned the television. He thought it was very commendable of the police department to not to rush in. Because the officer was so good he got the officer a gift card for some coffee. Chief Meidl wrote him a letter and gave him the card back, so he's learned that you need to be careful about gifts even if

you're just trying to recognize an officer's good work. He attended a meeting at the East Central Community Center.

Rose shared that she attended a forum on September 22<sup>nd</sup> at the Northeast Community Center about youth being incarcerated. She was amazed at the number of people who showed up. There were youths and parents there telling about their story with the Juvenile Court. She will write up a little report on the grant process.

Gardner said she has been asked to serve on the Advisory Board for the Community Court and she agreed to do it.

Wilburn said there were 440 plus arrests of juveniles in Spokane Public Schools from January to April of last year. We went in and addressed the principals, faculty and administrators about these arrests. The School Resource Officers (SRO) were instructed not to go into classrooms and arrest students there. This year, from January to April, it went down to 40 arrests. That's why the parents were so angry; he believes a lot of the arrests were unnecessary. There's been a grant awarded to the Juvenile Justice System and Spokane Public Schools to look at student activity, and Pastor Shon Davis is heading that up from the civilian point of view. He is glad that Gardner is serving on that committee. We need voices so we don't revert back. He said the SRO are considering arming themselves and that could be another problem.

#### Scheduling training with Jennifer Jackson

A brief discussion took place, and a decision was made to schedule the training for 4:30pm on the December meeting night, then the meeting will take place at 5:30pm.

#### Discussion/decision on Regular Meeting Schedule

A brief discussion took place. Jenny made a motion to move their meeting to the second Tuesday of each month at 5:30pm at city council chambers. Gardner and Smith seconded. More discussion occurred. Logue asked if this could be tabled until the next meeting, and Rose withdrew her motion.

### Selection of New Chairperson

Conklin said she will not be re-appointed. Her term expired on September 15<sup>th</sup>, and under the Ordinance she will continue to serve until her replacement is named or 90 days, whichever comes first. Given everything that's going on, it became clear to her that she needs to step down as Chair early, so it stops being all about her, and becomes an opening for the Commission to move forward and be effective in its work. She is interested in receiving nominations for someone to be the Interim Chair until the end of this term, and then in December, under the Ordinance, the Commission will elect a Chair for 2018.

Gardner nominated Smith to assume the Chair position until the end of the year. Rose seconded. The vote was unanimous in favor.

### Public Records Requests (PRR) Update

Huseman thanked the Commissioners who responded to her emails. She said it gets a little confusing when there's a number of different requests and her purpose tonight was to make sure we were covering everything. She added a reminder that if no one uses a personal device, which includes a tablet, cell phone or laptop, then you don't have to worry about a declaration. The converse is true; if you use a personal item or email to conduct city business, a declaration is needed.

Conklin invited all Commissioners to check with Huseman this week and make sure they have filed any necessary declaration of adequate search. She said if you don't have to file a declaration, be sure to let Ms. Pfister in the Clerk's Office know. If for some reason you have not yet done 1 of those 2 things, make sure to give the Clerk's office a sense of when you're going to be done with that.

A brief discussion took place between Brian Breen and Commissioners, ending with a clarification that Mr. Beggs was not providing the Commission with a legal opinion.

Breen asked for a status of the public records request. Conklin said she has done her declarations. She's not sure it's necessary for everyone to answer that question, but she thinks the Clerk's office will notify him. He said it's up to the people – if they don't want to answer, that's fine. Gardner said she has no problem answering, and she said she has. Rose said she has submitted her email

to the Clerk's office stating what she has done. Wilburn said he gave them hard copies.

Breen asked about the outcome of Conklin's phone. She said they are still working on it. He asked if they don't pull anything off of it, if she will go to her provider to get the information. She said she's already tried the provider and they told her there's nothing they can do. Breen said that's not true; that T-Mobile is her provider and they can provide her with her text messages and emails. Conklin said her requests have been turned down. He asked her if she's read the Nissen case, and they had a brief discussion.

Breen asked Huseman where she stands with his PRR. She replied that she has completed all the declarations, done the searches, and provided all the responsive records. He asked if she searched this computer. She replied that this is a city computer, she doesn't use it for emails, and only uses it for word processing.

Conklin said we normally give people 5 minutes, and we have been very generous here, and if you have further questions like this, there are ways to go about them.

Smith said we need to end this interrogation, it's becoming inappropriate. He said it's well over the time limit, and it feels like we're in some kind of accusatory environment and it's disrespectful. Breen interrupted him and said he's just trying to get information. Smith said Breen is going to get the information from City Hall.

#### Discussion/approval of Orientation Checklist for New Commissioners

Conklin said she believes Gardner wants to be part of that discussion, so she suggested we table it until next month. The Commissioner voted unanimously to table the item.

#### Approve Minutes from August 8, 2017, and September 5, 2017

Wilburn made a motion to adopt the minutes of August 8. Rose seconded. The vote was unanimous.

Regarding the September 5<sup>th</sup> minutes, Conklin said there was a typo where it said "down" instead of "done". Smith made a motion to approve the minutes of

9/5/17 with the correction that Conklin mentioned. Wilburn seconded. The vote was unanimous.

#### Performance Appraisal Reviews of Staff

Conklin said at our last meeting Logue said he would have his PAR by September 15<sup>th</sup> and we would respond and get ready to do that evaluation tonight, but she doesn't believe we are going to be doing that. Logue said that's correct. Conklin said Huseman did get hers done so if you're prepared to move forward with that we can go into executive session. She talked briefly about the process and recommended that we meet with Huseman tonight, give her our feedback, then formally adopt hers next month. Smith said that sounds sensible to him.

Conklin declared the Commission would be in executive session for 15 minutes for purposes of employee performance review, saying it is 7:12, and we'll be in executive session until 7:27.

The Commissioners returned to the public meeting at 7:27pm, and Conklin adjourned the meeting.

Minutes submitted by Marty Huseman and approved on 11/7/17.