



## Public Safety Commission Meeting

October 18, 2011, 9:30 a.m.

Criminal Law Enforcement Auditorium

6100 Guadalupe, Bldg E

Austin, TX 78752

### Summary

(This report represents a summary of events of the meeting, and is not necessarily complete nor an exact transcript of testimony.)

The Public Safety Commission convened as posted to consider and take formal action, if necessary, on the following agenda items:

#### I. CALL TO ORDER

*9:42 am - Chairman Polunsky called the meeting to order. In attendance: Chairman Allan Polunsky, Commissioners Carin Barth, John Steen and Cynthia Leon. Commissioner Ada Brown was not present. Also present were Deputy Director David Baker, and General Counsel Phil Adkins. Director Steve McCraw arrived later in the morning.*

#### II. APPROVAL OF MINUTES

*Motion made by Commissioner Barth, and seconded by Commissioner Leon, to approve the Minutes. Approved – Commissioner Steen abstained since he was not in attendance.*

#### III. PUBLIC COMMENT (members of the public wishing to address the Commission are subject to a time limit of 5 minutes and must complete a Public Comment Registration Card located at the entry)

*Chairman Alan Polunsky asked if anyone wished to make public comment. There was no response.*

#### IV. DIRECTORS REPORT

*Director Steve McCraw is in San Antonio and will move this report until later in the meeting.*

*12:00 noon – Director Steve McGraw introduced FBI Special Agents to issue an award*

##### A. FBI Presentation

*Federal Bureau of Investigation (FBI) Special Agents Michael Bonner, Mark Kelley and one other agent presented a Certificate of Commendation to Texas Ranger Louis Jeffrey Owles who, on April 8, 2011, while an Agent*



FBI Special Agent Bonner and Texas Ranger Louis Jeffrey Owles

*with the Departments Criminal Investigation Division, was working with the FBI's Multi Agency Gang Task Force and provided tactical support for an operation to rescue two adults and one child being held captive by very well armed kidnappers known to be connected with the Mara Savatrucha (MS-13) gang. Later investigations found that the victims were to be moved and killed one hour after the law enforcement interdiction.*

## **V. NEW BUSINESS**

**A.** Discharge Appeal Hearing and possible action regarding DPS employee Juan Lozano. Chairman Polunsky –instructed Counsel Frank Menchaca regarding this hearing as being an administrative hearing and not subject to the same rules of a court proceeding. The hearing began at 9:47 am. Counsel Jeff Lopez represented the Department.

*Following two hours of testimony, a motion was made by Commissioner Leon to uphold the termination. The motion failed for lack of a second.*

*Commissioner Barth moved to postpone the appeal hearing decision to a future meeting. Seconded by Commissioner Steen. Motion carried 3-1, with Commissioner Leon voting against. Commissioner Steen asked if it is permissible to discuss the hearing in Executive Session. Gen. Counsel Adkins confirmed that that was permitted.*

**B.** Report, discussion, and possible action by the Commission regarding the appointment of members to the Vehicle Inspection Advisory Committee under Transportation Code, section 548.006

*Assistant Director Renearl Bowie – Regulatory Division – made a recommendation to add a member to the VIAC. Motion made and seconded. Approved unanimously.*

**C.** Discussion and possible action to authorize the Director to execute a deed conveying 0.0156 acres of real property for highway purposes in Rosenberg to the Department of Transportation under the authority of Transportation Code, Section 203.055

*Assistant Director Valarie Brown – Administration Division – This is a small plot (1/16<sup>th</sup> acre) that is not developable and needs to be transferred for highway improvements. Motion made and seconded. Approved unanimously.*

**D.** Briefing on the “Texas Science and Engineering Festival”

*Assistant Director Rebecca Davio – introduced Deputy Assistant Director Enrique Gomez who founded the “Texas Science and Engineering Festival” last year before joining the Department. DPS will participate in this year’s festival to showcase and promote science and technology in Texas. This year’s event will be held on Nov. 5-6, 2011, at the Austin Convention Center, and is free to attend. It is the second largest festival of its kind in the U.S. Last year there were over 20,000 attendees and over 100 booths and 17 sponsors. This is an excellent opportunity for the Department to engage the public and show a different face of law enforcement.*

**E.** Report, discussion and possible action regarding the adoption of proposed new Capitol Access Pass Rules: Rules 2.1 – 2.13, 37 TAC Secs. 2.1 – 2.13, concerning the establishment of rules for Capitol Access Pass

*AD Renearl Bowie proposed adoption of the rule as published in the Texas Register. This will be similar to the Concealed Handgun Licensing process without the need to complete the handgun training. Motion made and seconded. Passed unanimously.*

**F.** Report, discussion and possible action regarding the adoption of amendments to Commercial Driver License Rule: Rule 16.2, 37 TAC 16.2, concerning Commercial Motor Vehicles and Licensing Definitions

*AD Rebecca Davio – These are rules that we reported to the Commission several months ago. They have been posted in the Texas Register and we had no comments. Motion made and seconded. Passed*

*unanimously.*

- VI. ADJOURN INTO EXECUTIVE SESSION** (if required) 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; ongoing criminal investigations

*Chairman Polunsky adjourned to executive Session at 12:03 pm.*

*Reconvened at 3:57 pm.*

**VII. ONGOING BUSINESS**

Reports, discussion and possible action regarding the following:

- A. Report, discussion and possible action regarding the appointment, promotion, ratification, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of the Department or Commission management team

*Chairman Polunsky – Nothing under A*

- B. Report, discussion, and possible action by the Commission regarding modification and transformation of the DPS organizational structure approval of personnel placements and salaries pursuant to Government Code chapter 411, Secs. 411.005, 411.006 and

i. 411.0071

*Chairman Polunsky – Nothing under B*

- C. Update report, discussion and possible action regarding the status of building safety and security at the DPS campus on North Lamar

*Chairman Polunsky – Nothing further to discuss from the Executive Session*

- D. Status Report and discussion regarding HB 2131 the development of rules for eligibility, application, approval, issuance, and renewal for a Capitol Access Card

*Previously reported by AD Renearl Bowie.*

- E. Report, discussion and possible action on the Fiscal Year 2011 Operating Budget

*Assistant Director Denise Hudson – CFO – Finance – As of the end of August, we had \$1.3 million cash balance in our Programs. We have \$8.7 million balance remaining and \$12.6 million requested in Grant applications.*

*Regarding FTE's, we have 368 vacancies, with 60 recruits in the current class which will leave 308 FTE's needed.*

- F. Report, discussion and possible action regarding purchases using seized funds

*AD Denise Hudson – nothing further to report at this time.*

- G.** Update Report, discussion and possible action regarding recruitment

*Deputy Assistant Director Frank Woodall – We currently have 60 recruits in the B-11 class. We have processed and accepted 21 applicants for the next class. There are 14 awaiting interviews, 146 awaiting fitness and written tests, 49 awaiting their polygraph testing and 38 waiting for their background checks to be completed. We have a total of 469 applicants that have been pre-screened.*

- H.** Report, discussion and possible action regarding Continuity Plan at the Department of Public Safety

*Chairman Polunsky – nothing under H.*

- I. Follow-up report, discussion and possible action regarding creation of a foundation to benefit the Texas Department of Public Safety

*Chairman Polunsky – nothing under I.*

- J. Follow-up report, discussion and possible action on the Department of Public Safety ethics policy and reporting requirements

*Commissioner Steen suggested that we defer this item due to the late hour and since Commissioner Brown is not present. Chairman Polunsky deferred the item to the November meeting.*

- K. Status report, discussion and possible action on TxDOT median dividers and effectiveness in deterring vehicles crossing over and law enforcement turn around areas

*Assistant Director Gonzalez – nothing has changed regarding the cross-overs since my last report.*

- L. Follow up report, discussion and possible action on Chief Auditors Office Open Issues – aging and corrective action

*Director Steve Goodson – Audit and Inspection – We have 130 open issues since last report (of the 257) leaving 112 in progress.*

- M. Status report, discussion and possible action on Department generators – specifically conversation updates with electrical companies around the state

*Assistant Director Nim Kidd – reported that he is continuing to work to keep DPS on the Tier One list for power. Generators and automatic switches are being added to offices around the state including Lubbock, Abilene, and San Antonio.*

## **VIII. REPORTS**

- A. Commission member reports and discussion

*Nothing to Report.*

- B. Finance Report

*Nothing further to Report.*

- C. Chief Auditors Office Report

*Commended the Fusion Center for progress in compliance.*

- D. Division status reports on activities and action

- *Administration – Assistant Director Valerie Brown – showed photos of the new Regional Headquarters building in Weslaco, and reported that the \$40,600,000, 112,000 sq. ft. complex was complete and the move-in is beginning. Move-in should be complete by November 1, with the Grand Opening scheduled for January 26, 2012. The Commission had questions regarding the cost and the land swap which were addressed.*
- *CID – Nothing further to add to my report*
- *Drivers License – Nothing further to add to my report*
- *Emergency Management – Nothing further to add to my report*
- *Government Relations – Nothing further to add to my report*
- *Highway Patrol – Nothing further to add to my report*
- *Information Technology – Nothing further to add to my report*
- *Intelligence and Counterterrorism – Nothing further to add to my report*
- *Law Enforcement Support – Nothing further to add to my report*
- *Office of the Inspector General – Nothing further to add to my report*
- *Regulatory Services – Nothing further to add to my report*
- *Texas Rangers – Nothing further to add to my report*
- *Inspector General – Inspector General Stuart Platt reported to the Commission that Captain Michael Bradbury is promoting to Major and moving on to El Paso. Philip Ayala will be replacing*



*Capt. Bradbury and we are very happy to have him join our division.*

## **IX. CONSENT ITEMS**

- A.** Report, discussion and possible action regarding the adoption of proposed amendments to Private Security Rules: Rules 35.41, 35.43, and 35.46, 37 TAC Secs. 35.41, 35.43, and 35.46, concerning Standards; Rule 35.141, 37 TAC Sec. 35.141, concerning Requirements for Issuance of a Security Officer Commission by the Board; Rule 35.251, 37 TAC Sec. 35.251, concerning Training Requirements; Rule 35.281, 37 TAC Sec. 35.281, concerning Training – Personal Protection Officers; Rule 35.291 and Rule 35.292, 37 TAC Secs. 35.291 and 35.292, concerning Continuing
- B.** Report, discussion and possible action regarding the adoption of the proposed repeal of Private Security Rules: Rule 35.33, 37 TAC Sec. 35.33, concerning Certificate of Installation; Rules 35.111 – 35.117, 37 TAC Sec. 35.111 – 35.117, concerning Uniformed Motorcycle Escort Service; Rule 35.241, 37 TAC Sec. 35.241, concerning Business Evaluation Service
- C.** Report, discussion and possible action regarding the adoption of proposed new Private Security Rules: Rules 35.321 – 35.323, 37 TAC Secs. 35.321 – 35.323, concerning Active Military and Spouses – Special Conditions
- D.** Discussion and possible action on appointments of Special Rangers and Special Texas Rangers pursuant to Government Code chapter 411, Secs. 411.023 & 411.024: Special Ranger: Jorge L. Aguilar, Donald W. Cameron, Patrick A. Brennan, Michael W. Glenn, Charles W. Goforth, James L. Johnson, and Thomas R. Wilemon. Special Texas Ranger: none
- E.** Acknowledgement of acceptance of travel and training donated by Oracle Systems to Information Technology management as authorized under Government Code Chapter 575

*A motion was made to approve all five consent items and was seconded. There was no discussion and the motion passed unanimously.*

## **X. ITEMS FOR FUTURE AGENDA**

*Commissioner Barth asked for updates from AD Davio regarding the DL Mega-Centers.*

## **XI. DATE FOR FUTURE MEETINGS**

*November 17, 2011*

## **XII. ADJOURN**

*Chairman Polunsky adjourned the meeting at 4:47 pm.*

The Commission may take items out of the order in which they are posted on this agenda. Also, an item that has been adopted, passed upon, delayed or tabled for a later meeting may be considered or reconsidered at the same meeting.

The Public Safety Commission may meet and discuss in Executive Session and have action taken in an Open Meeting where required on the following items

Government Code Sec. 551.071 Consultation and deliberation with legal counsel about pending or contemplated litigation or a settlement offer, or on a matter where the

Commissioners seek the advice of their attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, and to discuss the Open Meetings Act and the Administrative Procedures Act with their attorney

Government Code Sec. 551.074 Appointment, employment, evaluation, reassignment, duties,

discipline or dismissal of director, assistant director, and persons appointed to management team positions pursuant to Govt. Code Sec. 411.0071

Government Code Sec. 551.076 Deliberations about security audits, security devices, including deployment and implementation of security personnel and devices

Government Code Chapter 411, Sec. 411.0041 Ongoing criminal investigations

Government Code Sec. 551.072 Deliberation of the purchase, exchange, lease, or value of real property, if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person

Government Code Sec. 551.073 Deliberation of a negotiated contract for a prospective gift or donation to the state or the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person