



**SPECIAL MEETING
MINUTES OF ACTIONS
Wednesday, January 9, 2013
Art Pick Council Chambers
3900 Main Street, Riverside, CA**

SPECIAL MEETING – 5:30 PM (OPEN SESSION)

PLEDGE OF ALLEGIANCE

Roll Call

Rotker	Smith	Johnson	Sawyer	Ortiz	Jackson	Roberts	Santore	Adams
✓	✓	✓	✓	✓	✓	✓	✓	✓

✓ = Present **B** = Absent / Business **S** = Absent / Sick **V** = Absent / Vacation **O** = Absent / Other
UE = Absent / Unexcused **L** = Late **LE** = Left Early **■** = Vacant

STAFF: Frank Hauptmann, CPRC Manager; Phoebe Sherron, Sr. Office Specialist

Public Comments

Public comment on any subject matter within the Commission's jurisdiction.

Mary Shelton said that under the City Charter, the Commission has the ability to make policy recommendations to RPD and that the Casa Blanca incident may require that. She said that while RPD has said that a policy revision has not been discussed, that may not be true as a suit is currently underway regarding a rear-ender by an officer who was using the mobile data terminal (MDT). She said that any discussion should be intelligent and should involve the Commission as well as RPD.

Officer-Involved Death (OID) Case Evaluation

A) Continue Pablo OID Case Evaluation

- 1) Report Presentation by Mr. Steven J. Bellino, Traffic Accident Reconstructionist, California Traffic Specialists

Mr. Hauptmann introduced Mr. Bellino, who is a traffic accident reconstruction expert.

Mr. Bellino began by telling the Commission about himself and his level of expertise, after which he gave an extensive and thorough presentation of his review and analysis of the Pablo incident.

After Mr. Bellino concluded with his presentation, Chairwoman Roberts advised that public comment would now take place, with commissioner questions afterward.

Paul Chavez said the report was well done, but that the many suggestions regarding who was at fault for the cause of the accident do not make sense. He said that there are some reports that say the officer was on his cell phone while others say he wasn't. He also noted that the officer shouldn't have been driving as fast as he was and that if he had been driving slower, he may have hit her, but not killed her. He said that it was just as much the driver's fault as the pedestrian's and that if it was a civilian who had hit and killed Ms. Pablo, that driver would be in jail.

Mary Shelton said the review and analysis was very thorough, but took exception to the speed limit being increased to 40 mph. She said that pedestrians can do everything right and still get killed. She noted that nothing has been said about pedestrians; a lot of focus on drivers, not pedestrians. She also asked that Mr. Bellino's report be put online.

Commissioner Rotker:

- Thanked Mr. Hauptmann for finding an expert with this level of expertise.
- You said you were very impressed by the officer's reaction time. Was his reaction time reduced by him looking at his computer?
 - The MDC's (mobile data computer) records were obtained. While the officer said he never saw Ms. Pablo prior to the collision, video footage shows that he put on his brakes and made an L-steering maneuver to avoid the collision. If Ms. Pablo was visible only two seconds before the collision, the officer wouldn't have stopped until he was past the church. The officer had to have been looking up when Ms. Pablo entered the roadway. Even if he'd been constantly looking at the roadway, Ms. Pablo would have been obstructed by shrubbery. There was nothing the officer could have done to avoid the collision whether travelling at 35 or 40 mph. The MDC was considered in the calculations done. Many police departments have policies regarding the use of MDC's while driving.
- It doesn't take much pressure to activate brake lights. Can it be determined how strongly the officer stepped on the brakes?
 - No. Officer Matthews assumed maximum braking.
- Could Ms. Pablo have seen car if she'd looked to the left even with the truck and shrubs there?
 - Yes. Officer Matthews did a sight analysis and determined that if she had looked to the left, she would have seen the police car.
- Would she have been able to keep from being hit?
 - Not in her condition. If she had looked left, she should have been able to see that a car was approaching. It was not addressed by me, but Officer Matthews did. Not saying speed limit should be 40, but saying that although analysts determined the 85th percentile on Madison was 40 mph, the City decided to leave speed limit at 35. The collision could not have been avoided at 35. The officer would have had to travel at 32 mph or slower. My report just indicates that 40 mph was reasonable.
- If you were the driver of the car in the officer's situation, could you have avoided accident?
 - No. At 60 years old, no. I would have hit her before collision avoidance reactions could be initiated. The officer is 22 years old and has quicker reactions.
- The 85th percentile refers to the average person. What about the 50th percentile and how would that have affected things?
 - The speed goes down and the driver's perception and reaction increases. This analysis is done on a bell curve and the analysts want to eliminate the highs and lows of that curve. Traffic engineers' calculations show that averages are at the 85th percentile.
- If a person with Ms. Pablo's blood alcohol level is able to walk similar to an average person, could that person have the ability to avoid the collision if they have that high a tolerance due to drinking for years?
 - The information given was for the average person who isn't an alcoholic. The only way a person could have a high blood alcohol level like Ms. Pablo's and still function would be to have a high tolerance to alcohol from consuming at least a quart of alcohol a day. In order for Ms. Pablo to be a functioning person with a blood alcohol level of .39, it tells me she was an alcoholic and consumed a large amount of alcohol every day.

- If an average person left the curb, could they have been okay?
 - Would the average person be able to perceive the situation? Yes.
- The officer glancing at computer before impact had no bearing on this incident?
 - Correct. I firmly believe that the officer looking at the MDC played no part in this incident.
- You said a blood test was done on the officer. You also said blood tests on involved officers are not normally done unless supervisors fear intoxication.
 - I have never heard of blood test requirements, unless something indicated the officer was intoxicated.

Commissioner Ortiz:

- You are not recommending the speed limit be increased on that street, correct?
 - No.
- Could the collision have been survivable if the officer had been driving at the speed limit?
 - There would still have been a severe impact.
- What was projected speed at the time of impact?
 - Actual impact speed was 33.58 mph.
- Is there any analysis that could be done to determine survivability at the different speeds?
 - A lower speed wouldn't have made a difference. A fatality can occur at 10 mph. Most people probably wouldn't survive a collision over 20 mph.
- Going 40 mph really makes no difference regarding her survivability.
 - Correct. The speed limit is only a recommended speed on surface streets. Reasonable speeds are dependent on current conditions.

Vice-Chair Jackson:

- When you were an officer, were there times when you knew you should go slower?
 - Absolutely. Dependent on current environmental conditions such as school children, weather, and traffic conditions.
- You'd said between 27 and 32 mph, the officer could have avoided the impact.
 - 27 - 32 mph would be the slowest the officer could go to begin his perception and reaction time to stop.
- Having been to the neighborhood, I feel the speed limit is too high.
- Don't want to exclude the use of MDTs but don't want it forgotten that the officer said he was looking at his MDT. Maybe the officer should have been paying more attention. I believe he couldn't have avoided it and she didn't look, but maybe if his attention hadn't been diverted, this wouldn't have happened.
 - Riverside employs traffic engineers who have determined the average speed along that street at 38 mph, but the speed was kept at 35. Even if traffic signal were put in, pedestrian accidents would still happen.
- Would the average citizen know that that area isn't a crosswalk?
 - It is the same as a T-intersection. What could be done different? A signal could be installed, but traffic engineers might have said it's not justified.

Commissioner Santore:

- Is the raised media in the roadway there as a deterrent to crossing, as well as the shrubbery along the street?
 - There are open areas for pedestrians, but borders were created to keep people from crossing.
- Is this a true intersection or an off-set intersection?
 - No, it isn't a true intersection. If it were an intersecting street, it would be an unmarked crosswalk, but this doesn't meet the requirements of an unmarked crosswalk because the sidewalks don't intersect.
- Freeways and school zones have absolute speeds. Is the other side of that prima facie speeds?
 - Prima facie speed says that, whether or not the speed limit is posted, residential streets are 25, allies 10, and freeways a minimum of 55.
- Are there any studies that can be reviewed that talks about the driver or pedestrian being the contributory factor in the accident?
 - The only source for this type of information is SWITRS (State-wide Integrated Traffic Records

System) and would note the number of traffic collisions reported to police departments and traffic engineering departments. Traffic engineering does studies regarding accidents and fatalities. If the number of accidents at an intersection becomes too high, that intersection is re-evaluated. If the truck wasn't parked on the street there, the officer would have seen Ms. Pablo two seconds sooner.

- Asked for confirmation of CVC 21954, which says that pedestrians yield right of way to vehicles if they are walking outside a crosswalk.
 - Yes.
- CVC 21950 – Right of Way.
 - Correct.
- CVC 275 – definition of a crosswalk and how it's marked.
 - There can be unmarked crosswalks if the streets intersect with sidewalks on both sides.

Commissioner Johnson:

- Thanked Mr. Hauptmann and Mr. Bellino. People can be cited for use of cell phones and nationwide there's been an increase of accidents involving emergency vehicles. Do you know of any report on that?
 - No. When officer is in an accident, it's generally the officer's fault regarding the cause of the accident due to his multi-tasking needs. Many departments have policies that the MDC is not to be used unless it is an emergency, which is done via an audio alert to advise the officer.
- RPD says officers can use their equipment at any time.
 - Recommend not to use cell or MDT unless there is an alert call from MDT. A good policy would indicate that the officer shouldn't be using the MDT while the car is in motion unless an exigent incident occurs.
- Even after four hours, something would still show up and the officer had nothing on his tox report.
 - The officer's tox report shows caffeine. However, if he'd had two beers, the alcohol would have dissipated within four hours since alcohol dissipates quicker than other substances.

Chairwoman Roberts:

- RPD did the traffic investigation report. Would you have recommended that a different department do the investigation instead?
 - Maybe, but I would suggest creating a specialized Accident Reconstruction Team and would recommend Officer Matthews to head the team. RPD can contact Riverside County Sheriff or CHP to do a collateral investigation, but would it be better? Yes, but the Department might consider forming its own Accident Reconstruction Team.
- You mentioned you would have written a 9-page report and you didn't know why RPD went to such lengths to have such a lengthy report, though you eventually figured it out. Can you explain that?
 - A couple people said they saw the collision. Officer Matthews felt they should do 110% in the investigation to prove or disprove the statements made by witnesses. As a result, it was proved that the witnesses didn't see what they'd said they'd seen.
- I noticed that the speeds in your report and in Officer Matthews' are inconsistent.
 - GPS = 41, but I don't know why it was rounded up.
- I feel the investigation should have been outsourced. The information that went to the DA was what he used to make his decision. I would have recommended that the investigation be done by an outside agency. And when the officer's blood sample was taken, it was nearly four hours after the incident. Is it normally taken that long after an incident?
 - It's not normal for an officer's blood to be taken unless there's suspicion of intoxicants, but I would say it should have been taken within the first two hours.

Chairwoman Roberts thanked Mr. Bellino for his presentation and the thorough review and analysis he conducted on this incident.

Mr. Hauptmann noted that there was a lot of information to take in and advised the Commission that he had told Mr. Bellino that he may be asked to address the Commission again because of questions that may come up during the review of the case.

B) Continue Romo OID Case Evaluation

As it was after 8:30 PM, Chairwoman Roberts tabled discussion of the Romo OID.

2012 Annual Report

Discussion and action, if any, on the 2012 Annual Report, Working Version 3.

Chairwoman Roberts said that, due to the late hour, this item would be tabled until the next meeting unless there was something that had to be discussed tonight. She noted that staff had distributed the Committee's recommendations list and that Vice-Chair Jackson had submitted a suggestions list to staff as well.

Committee Chair Smith said that a list of recommendations had been submitted by the Committee, but that, overall, the Commission was fine with the report's format and that it just needed updating.

Commission Member Comments

Pursuant to Government Code Section 54954.2, Commission members may use this time to make brief announcements or a brief report on their own activities.

Chairwoman Roberts said that Christina Duran asked that an announcement be made regarding the RCPA's upcoming annual dinner and meeting for "The Bill Howe Award", which would take place on February 11th from 6 – 8 PM at the Community Settlement Association on Bermuda Avenue.

Items for Future Commission Consideration

There were no items for future consideration.

Adjournment

The Commission adjourned at 8:38 PM.

Respectfully submitted,


PHOEBE SHERRON
Sr. Office Specialist

01-09-13 Minutes – Jan Special