



Another investigation of Capitola's police

By BOB SMITH

The Capitola police department is again under investigation.

This time, city councilmen are unanimously supporting the expenditure of as much as \$15,000 for an outside consultant to look into the police department's organization and efficiency.

The orders to find an independent consultant went out to city manager Max Kludt early Tuesday morning at the conclusion of the third executive session on the department in a week.

The council had huddled for more than two and a half hours, beginning late Monday night — following a brief, but stormy session with former planning commissioner Robert Morton — with city attorney Richard Manning and Kludt about concerns and allegations about the department's administration.

Reportedly, these concerns had been brought to individual city councilmen during the last few months.

During that period, the council had sat twice as a personnel appeal board, listening to the appeal of former city patrolman Jim Born. Those sessions ultimately resulted in the dismissal of Born for making false statements to the council while testifying at an earlier appeal of his dismissal by city manager Max Kludt.

Born denied at that time that he had been disciplined while a police officer in the northern California community Dunsmuir.

He was placed on administrative leave following a 30-day suspension while police and Manning investigated. Kludt then fired Born for the second time, and the council refused to again overrule Kludt.

City councilman John Dixon authored the motion that instructed Kludt to start interviewing consultants to make a recommendation to the city council for an individual or firm that will re-evaluate the police department's organizational efficiency.

It passed unanimously, 4-0, with councilman Ron Graves not attending the meeting because of illness.

Mayor Tom Mason told reporters early Tuesday, after the session had adjourned, that the council had been meeting in closed session "to consider allegations made about the administration of the police department, its procedures and the way things were being handled."

Answering reporters questions, Mason added:

"There are concerns about the procedures used in hiring people. The Born case is a good example. Why wasn't the Dunsmuir information brought out to start with?"

The policies surrounding the city's traffic vehicle were another. "The traffic vehicle and the officer weren't being used to their full capacity," Mason said. "He had been used on a stakeout."

(The car, bought with special state funds, is supposed to be used for traffic enforcement and

accident investigation only, except in the case of emergencies.)

"A lot of accusations had been made," Mason added. "We felt some of these things had to be investigated."

City manager Max Kludt and police chief Martin Bergthold are in agreement with the investigation.

"Any organization can be improved," Kludt said after the decision was announced. "I've no qualms about bringing in an outside investigator."

Tuesday afternoon — 14 hours later — Bergthold echoed the city manager's statement: "I welcome the study. I think we have a really efficient police department, but naturally we have some internal problems."

Police commander Dennis Syfers went one step further, attributing the information reaching the council to "one disgruntled employee."

The council bluntly refused an offer from Morton — who had done investigative work for Born's attorney — to confidentially provide information — verbal and written — to the council on its investigation.

That offer brought a sharp question from councilman Michael Routh who wanted Morton to tell him how he knew what the council had been discussing behind closed doors with Manning and Kludt.

Morton asked for a closed door meeting with the council "to inquire into administrative matters of the police department. I ask to be invited to the session to go over this information with you," he added, gesturing to an attache case.

"What I have," said the former planning commissioner and gift shop operator who now lives in Live Oak, "are prepared packets for the council with all the information."

"But it would require a direct presentation to gather it all together."

"It is pertinent to what you are discussing tonight," he added.

"How do you know what we have been discussing," Routh angrily and repeatedly demanded of Morton.

He didn't get a reply.

In one form or another, the information contained in those packets had already been discussed or reviewed by councilmen.

Among other items, they contained copies of a letter written Feb. 17, 1977 to state Attorney General Evelle J. Younger by former Capitola police officer Ronald Taylor, copies of transcript excerpts purportedly showing perjury by other city employees at the Born appeal hearings, and an affidavit from a city police officer about a death investigation conducted by the department in 1975.

Reportedly, the 1976 county grand jury also briefly investigated the department's handling of the death of John Maurice Kollmeyer, 79, in a Capitola mobile home on July 1, 1975.

During the first Born appeal

hearing, testimony was offered indicating that grand jury members met privately with Born and police Sgt. Danny Pacheco.

Grand jury members later reported the results of a probe into complaints by a Capitola couple about the department's failure to catch a prowler outside their apartment. Nothing was publicly said about the death investigation.

A letter was written to Younger on Feb. 17, 1977 by Taylor, who resigned from the department several years ago, moved to Utah, returned to California, and now works as a store security officer in a Santa Cruz department store.

In the letter, Taylor defended Born, who had just been fired for the first time by Kludt, and then told the Attorney General that the police department possibly bungled the investigation into the death of Kollmeyer, who lived at 426 Capitola Ave., Space 75.

The Coroner's Office listed Kollmeyer's death, following an autopsy, "as asphyxiation, possibly due to suffocation."

A death investigation was begun by Born, but later taken over by Bergthold.

In his presentation to the council, Morton alleged that his information dealt with "perjury and the alteration of police reports."

Bergthold, Tuesday, released the original handwritten report signed by Born as the investigating officer. Descriptions of the death scene tallied very closely with the coroner's death investigation report.

Born also took one roll of photographs, according to Mason, which were not turned over to the police department.

Instead, said the mayor, Born kept them and this spring gave them to Mason.

Mason had them developed and printed, reporters were told Tuesday by the mayor, and showed them to District Attorney Chris Cottle who told the mayor they weren't inconsistent with the death investigation results.

The council, on the advice of city attorney Richard Manning, refused to open its doors to Morton Monday night.

Manning pointed out that state law requires prior notification to employees involved in hearings where charges against them are aired.

Instead, Morton was given the chance to submit the written information to the council first, giving it a chance to see if they wanted to meet with the ex-planning commissioner who resigned last year during a storm of criticism.

Morton refused, insisting that he should be permitted to present the entire package in one meeting.

"Our legal counsel is advising us that we can't do this," Dixon reminded Morton.

"I've no objections to Chief Bergthold and Watch (sic) Commander (George) Turegano being invited to the meeting," Morton said.

Mason still wanted to review

the information before making a decision about the meeting.

"I'm not here as a mailman," Morton angrily replied. "There is a presentation to go with it."

He then withdrew his offer.

Taylor, in his letter, told Younger's office that Kollmeyer's death "as believed by Born and other competent law enforcement personnel to have been a homicide."

"The original investigative officer, James Born, at the scene of the death, took several photographs of the scene. These photographs would indicate clearly to anyone . . . evidence of foul play. It is the opinion and conclusion of Sgt. Dan Pacheco (a 14-year veteran of the department), officer James Born and myself, a former employee of the department, that this case should have been investigated as a homicide."

A letter, written last week to city manager Max Kludt by Leroy Sana, acting assistant director of the Attorney General's Division of Law Enforcement, administered a mild slap to the department, but concluded there was no point in reopening the investigation at this time.

"A preliminary investigation was conducted by this department," Sana wrote, "and as a result, it did appear that at the time of the victim's death there was sufficient reason to conduct a more thorough investigation."

However, due to the passage of time and the subsequent suicide of the victim's wife, further investigation of the matter would be pointless."

The Santa Cruz County Coroner's office said Kollmeyer's widow, Mrs. Jean Hart, 57, died of a drug overdose in a Santa Cruz trailer on March 10, 1977.

Born's handwritten report and the coroner's report both indicate Kollmeyer was found by his widow on the floor of their Capitola trailer with two pillows over his face.

The coroner's death investigation report quoted Bergthold as saying he had talked to the wife and had been told "that the subject (Kollmeyer) had been drinking last night (June 30, 1975) and they had a fight. Subject's wife left at that time and came back a little later that night and picked up their vehicle. At that time, she didn't see the subject."

"The wife stated that she came back this morning and found subject in the condition he was in (dead) and contacted the Capitola Police Department."

"The subject was laying on the floor of the trailer in the living room section, with two pillows over his face."

A autopsy was ordered and performed by Dr. William Winchell of Santa Cruz.

A blood analysis showed 0.19 per cent alcohol in his blood, nearly twice the legal minimum for drunk driving cases, but no evidence of a drug overdose.

In his finding, Winchell said there was "no obvious cause of death. A pillow would not or-

(Continued on page 3)

Capitola police investigation

(Continued from page 1)

dinarily induce a consideration of suffocation as the cause of death.

"However, in view of the fact that an organic or traumatic pathology if significance could be found in the autopsy examination together with the fact that the deceased was under the influence of alcohol at the time of his death would seem to justify the conclusion that asphyxia due to

accidental suffocation was the cause of death.

"People under the influence of alcohol are more susceptible," Dr. Winchell noted, "to asphyxial death. It is acknowledged that the physical signs of asphyxia such as conjunctival petechial hemorrhages were not found in this case."

Both Kludt and Bergthold say the city's personnel screening procedures have been changed drastically since Born was hired by city.

Referring to the period in which Born and several other officers, no longer working for the city, were hired, Kludt said:

"You have to analyze the pressures of the time. At that time, it was the pressure of being undermanned.

"And I'm the first to admit that (Henry) Murren's background investigation was done after the fact."

Murren, first a CETA then a probationary officer, was fired by the city approximately two years ago. His demand for a public hearing before the council brought out the fact that he had been arrested on petty theft charges in New Jersey. A hearing was denied because Murren was not a "permanent" city employee with appeal rights.

"Born's background," Kludt added, "wasn't as extensively examined as we presently do."

Born was a lateral transfer from Dunsmuir to Capitola. "In any situation where you accept a lateral transfer, you run the risk of having someone there saying 'he's a great guy' when he isn't."

"However, if the background check is extensive, you get a trained officer."

At present, the city has an extensive selection procedure for

rookie police officers. First there is a written examination, then a physical agility test, and then an oral screening board before police officers borrowed from other departments.

Such a screening was going on Tuesday in an attempt to establish an eligibility list for two vacancies.

Background checks are then run on the top 10 candidates. This includes completion of a 16-page questionnaire, contact with each reference listed by the applicant, and a visit to his home city.

Procedures are specified by the state, Bergthold said, and the department has been audited satisfactorily each year.

Psychological and medical exams are then run on the candidates who survive the back-

ground investigation.

The reviewing officer then makes a recommendation to the police chief.

That recommendation, if approved, is sent to Kludt for a final decision.

Kludt said he's instituting another check into the process.

"It's conceivable that the background officer (either Syfers or Turegano) gets so involved with an individual that he misses something.

"We will now have a check on the background information by an outside agency."

This, he added, might be the sheriff's office or another police department, reading through the information looking for a discrepancy or a lead that wasn't followed through.

Food stamp meeting planned

An information meeting about the county's Food Stamp Program in Santa Cruz county will be presented Wednesday evening by the Tri-County Food and Nutrition Services.

The meeting will be held in Room 2 of the Capitola Intermediate School, 504 Monterey Ave., Capitola.

For more information, call Lee Davis or Chris Hirsch at the Capitola-Soquel Community Schools, 476-0120.

Sermon topic

"But Jonah Was Displeased," based on the Book of Jonah, will be the title of Sunday's Sermon at St. Andrew's United Presbyterian Church in Aptos.

Services begin at 10 a.m. at 9850 Monroe Ave. Extension in Aptos. John K. Tritenbach is minister.

Dramatic reading at Harbor High

"Guru-ess," a poetic, dramatic reading by Jack Zumel, who has met many of the female gurus of India, will be given Friday night at Harbor High's little theater.

The program will begin at 8

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