



CHARLOTTESVILLE POLICE CIVILIAN REVIEW BOARD MEETING

MINUTES

Date: February 10, 2022

Scheduled Time: 6:30 p.m.

Location: Virtual/Electronic Meeting

Board Members Attending: Nancy Carpenter, Jeff Fracher, Chair William “Bill” Mendez, Vice Chair James Watson¹

Board Members Not Attending: Bellamy Brown

Staff: Remy Trail (Communications), Hansel Aguilar (E.D.)

Guests: CRB Counsel Cynthia Hudson

Call to Order: Chair Mendez called the meeting to order at 6:30 p.m. He provided overview of the revised agenda format to include the announcements section, E.D. report and new business.

Announcements

In the inaugural announcements section, Board Member Fracher commented on his participation of the NACOLE implicit bias training. He indicated he found it “incredibly informative.” The training is now available to stream on the NACOLE website and encouraged his colleagues to watch it.

Approval of minutes

Member Fracher motioned to approve the minutes. Chair Mendez seconded the motion. The minutes were approved unanimously.

Approval of agenda

Member Fracher motioned to add a section on “new business” per a recommendation of the Chair. Member Carpenter made an inquiry about how much time is allotted to the meeting and E.D. Aguilar stated that he believed they could go up to 8:30pm. Vice Chair Watson seconded the motion to approve agenda as amended. The agenda was approved unanimously.

Public Comments (I)

Chair Mendez recommended that the public comment sections are modeled after the City Council procedures where the first section is regarding the first half of the agenda and the second public comment period regarding the second half of the agenda.

There were no hands raised for public comments.

Executive Director's Report

- Status of complaints
 - a. INITIAL COMPLAINTS (0): NONE RECEIVED SINCE LAST MEETING

¹ Arrived after roll call

- b. REVIEW REQUEST (0): NONE RECEIVED SINCE LAST MEETING
- c. CLOSURE LETTERS (2):
 - i. COMPLAINT RECEIVED IN 12/28/21. CLOSURE LETTER ON FEB 2/8/22.
 - 1. DISPOSITION OF ALLEGATIONS: (5X) UNFOUNDED
 - 2. ELIGIBLE FOR REVIEW IF COMPLAINANT FILES REVIEW REQUEST
 - ii. COMPLAINT RECEIVED IN 12/3/21. CLOSURE LETTER ON 01/27/22
 - 1. DISPOSITION OF ALLEGATIONS: (2X) EXONERATED; 1 SUSTAINED
 - 2. ELIGIBLE FOR REVIEW IF COMPLAINANT FILES REVIEW REQUEST
- d. PENDING INQUIRIES (1): E.D. ATTEMPTING TO CONTACT COMPLAINANT

- **June 2020 Report- Recommendations for auditing**

The 2019 City Council commissioned a report to ascertain:

- a. Whether the council should appropriate funds for an auditor position to serve the police civilian review board;
- b. Whether the auditor should be a full-time or part-time position or if the executive director recommends contracting with a firm for audit services.
- c. Which, if any, aspects of the Charlottesville police department's operations should be audited,
- d. Which forms and types of Charlottesville police department data should be made available for an auditor position to analyze.
- e. Whether the executive director and the Charlottesville chief of police should enter a formal MOU

The following recommendations were made:

- a. City council should consider appropriating funds so that the board (through the executive director) may hire a firm to audit some CPD activities from 2016- 2021. Other activities can be audited by the Executive Director. Also, City Council should revisit the discussion of a full-time/part-time auditor in FY-24.
- b. Per City Attorney recommendation, the Executive Director should work with the Charlottesville Chief of Police, city attorney and City Manager to establish a standard operating procedure (sop) to accomplish the goals of a MOU agreement.
- c. City council should consider empowering the board to audit the following activities:
 - 1. R1- Patrol Activities
 - 2. R2- Officer Discretion
 - 3. R3- Mental illness interactions
 - 4. R4- Special teams
 - 5. R5-UoF/R2R
 - 6. R6-Officer wellness
 - 7. R7-Retention
 - 8. R8-Recruitment
 - 9. R9-Complaints and Compliments
 - 10. R10- Technology

Public Outreach efforts

- CCS Engagement Meeting 01-11-2022

- Youth Council Presentation 01-12-2022
- Submitted outreach plan to Chair/V. Chair 01-17-2022
- Meeting with UVA VP K. McDonald (ODEI) 01-19-2022
- NACOLE Annual Conference Committee 02-02-2022
- Community Conversations- NBC29 02-03-2022
- Meeting with potential retreat facilitator 02-08-2022

Finance

For FY 22 the PCRB received an annual budget allocation of \$350,000. The budget was not itemized but did reserve 43.20% for salary and benefits. The remaining budget is intended to cover various line items of Board operations to include:

- a. Legal fees associated with Independent Counsel
- b. Administrative overhead
 - i. Public Relations
 - ii. Professional Development
 - iii. Education and Training

The Board's current budget must also account for the additional Board duties and responsibilities provided through the amendments of the ordinance. These new duties and responsibilities are scheduled to take effect during FY 22 (i.e. March 1, 2022):

- a. Independent Investigations
- b. Auditing Hearing
- c. Examiners
- d. Mediation

Member Carpenter had a budget related question. Specifically, she wanted to know if stipend for community members can be considered. E.D. Aguilar informed Member Carpenter that he was not opposed to this and would look into the legality of it.

Board Duties/ E.D. Duties

The working document is posted online for public review. It details which tasks the Board will oversee and which ones the E.D. will execute.

After the E.D. report Board members commented on their appreciation for the report and the work. Vice Chair Watson expressed satisfaction in the CAYIP program and asked what the program could like for the Board. E.D. Aguilar stated that the interns will be exposed to civilian oversight and would have the opportunity to engage in community outreach.

FOIA training and discussion

Independent Legal Counsel Cynthia Hudson provided a FOIA training to the Board members. In her training she discussed:

- The purpose of FOIA
- The definition of a public meeting under FOIA
- Meeting requirements under FOIA
- Electronic participation of individual members
- Restrictions and guidance of closed meetings

- The definition of public records
- Exceptions to Disclosure
 - Exclusions
 - Public safety records
 - Administrative investigations
 - Educational records
 - Health and social service records
 - Proprietary records and trade secrets
 - Miscellaneous exclusions
 - LE records
- When is a Request Made?
- How do You Respond to a Request?
- Timeline for Responding to FOIA Requests
- Cost of Production
- Violations of the Act

Chair Mendez sought clarification if it was up to the Board members themselves to screen their communications for anything that needs to be redacted and then inquire accordingly to the legal counsel.

Vice Chair Watson asked about the hybrid meeting environments and how they relate to FOIA. He commented that he felt our society was moving more into the hybrid environment.

E.D. Aguilar asked about contemporaneous emailing and the public meeting requirements when that is done. Ms. Hudson endorsed the idea and caution that contemporaneous emailing can be considered a public meeting.

E.D. Aguilar asked about the logistics of setting up training sessions and specifically whether that could be done off-line and then publicly notice the meetings accordingly.

Lessons learned from the Mock Hearing

E.D. Aguilar facilitated a debrief discussion to discuss lessons that were learned from the mock hearing.

E.D. Aguilar asked the members:

- What were the strongest aspects of the exercise or the process?
- In what areas can the Board or individuals improve?
- What specific training would the members like prioritized?

Chair Mendez stated it was an important milestone to see how the Board and CPD can participate. Chair Mendez stated that even in a simple case, it was evident that it is not that simple.

Member Carpenter thought that it would be beneficial to see other persons act out the process. She stated that at sometimes the hearing examiner role was “messy”.

Member Fracher stated that a hearing examiner is critical. Member Fracher thought that it was important to ascertain the parameters in terms of questioning and how long these proceedings can go on.

Member Watson asked for examples of hearings that could be watched. He thought that there would be a “rebuttal” from the police department.

Member Gilmore stated that the Board needs to do more. Member Gilmore would like to see other mock hearings and would like more practice.

E.D. Aguilar provided some commentary regarding the length of time of the reviews. He stated that it could really be impacted by the complexity of the case.

Chair Mendez discussed the possibility of the preliminary hearing/meeting that could have provided some guidance.

Vice Chair Watson commented on the complexities and challenges of finding a hearing examiner. He talked about how people may get impatient with the process and how to get “game-day ready.” Chair Mendez agreed with the comments.

Member Fracher stated that there are “entities” that provide the services. Member Watson stated that they should understand the “box” or “format” that they are trying to put them in.

Chair Mendez discussed the debrief that the Chair and Vice Chair had with the CPD regarding the mock hearing. The CPD identified areas for improvement, but their willingness to continue to work with the Board.

Progress on the Operating Procedures

Chair Mendez stated the path forward and the working group that will take the lead to draft the procedures. The goal is to provide a draft by the March meeting. Once the Board is comfortable with the draft, it will present them to the City Council.

Training committee

This item was initially skipped, but member Carpenter sought clarification on this agenda item. Chair Mendez talked about this committee and its general purpose to coordinate and discuss ride-alongs and other training options.

Member Carpenter motioned to extend time by 30 minutes. Member Fracher and Watson seconded the motion to extend the meeting. The motion to extend the meeting time was passed unanimously.

CPD Annual Expenditures

E.D. Aguilar provided an overview of the Budget Explorer website and showed members how to access it and read the document. The E.D. went specifically to the CPD Budget for FY 2022 and showed the line-items.

Member Fracher thanked the E.D. for the presentation. She commented on personnel impact and the intersectionality between certain personnel and “community care team.” She discussed ways that the budget line items can be reallocated to other initiatives and or departments.

E.D. Aguilar reemphasized the auditing report and the need to conduct systematic auditing to put forth strong budgetary recommendations. Vice Chair Watson asked about the logistics of seeking money for the auditing. He contemplated the possibility of sending a Board rep to City Council. Chair Mendez asked if the auditing allocation should come from the operating budget. E.D. Aguilar clarified that the budget would be “eating up” very quickly. E.D. Aguilar stated he would facilitate a discussion with the finance department. Vice Chair Watson stated that there may be some room to make recommendations as the budget is still not been approved. E.D. Aguilar reemphasized that he could coordinate a discussion with the finance department.

New Business

No new business was discussed.

Public Comments (II)

Ms. Teresa Hepler expressed that she was happy to hear Ms. Gilmore share her expertise and guide the Board in the deliberations. Ms. Hepler then provided legislative updates to the Board. Specifically, she discussed the proposals to make disciplinary power advisory only, a mandate to have ride-alongs, require a Board member to be a former law enforcement officer, and allow officers to use the Officer's Guarantee Act for grievances to get around the new civilian oversight. Ms. Hepler encouraged one of the Board members to testify in Richmond regarding these matters.

Chair Mendez stated he would reach out to Ms. Hepler and that it was time that one of the members went to Richmond.

Adjournment

Vice Chair Watson motioned for adjournment which was seconded by Member Fracher.

The meeting was adjourned at 8:40 PM unanimously.

Next Meeting: March 10th, 6:30 PM.