

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	May 3, 2021
Action Required:	Adoption of an Ordinance to Amend City Code §2-457 (1 reading)
Presenter:	Charles P. Boyles, II, City Manager
Staff Contacts:	Charles P. Boyles, II; Lisa Robertson
Title:	Amend City Code to Allow the Police Civilian Review Board To obtain General Legal Counsel Services

Background:

In 2019 the Charlottesville City Council enacted the current provisions within City Code Chapter 2, Article XVI (Police Civilian Review Board (“PCRB”). The General Assembly had not yet enacted legislation expressly authorizing civilian oversight boards, so the initial PCRB was authorized to exercise a limited set of functions and duties to allow review of Police Department activities, in four specific categories: complaints [City Code 2-460], reviews of internal affairs investigations [City Code 2-461], policy recommendations [2-458] and community forums [City Code 2-459]. Within the current ordinance, City Council allows outside legal counsel to be engaged for the PCRB but restricts the categories of services that the outside counsel may provide to those same four categories: “*The board's legal counsel shall advise the board on all legal questions the board may have concerning complaints, reviews of internal affairs investigations, policy recommendations, and community forums.*” If the PCRB would like legal advice concerning questions on topics other than those four categories, they may consult the City Attorney’s Office.

Discussion:

Outside legal counsel is retained pursuant to a contractual agreement, and this contractual relationship is paid for by funds appropriated to the PCRB’s budget. Those public funds can only be expended for purposes authorized by City Council within Chapter 2, Article XVI of the City Code. On April 27, 2021 the PCRB made a presentation to City Council, asking for City Council’s consideration of an amended ordinance (and, in the near future, a related set of Operating Procedures), to establish the PCRB as an civilian oversight board having all of the powers and duties enabled by the General Assembly in 2020 (2020 Acts of Assembly, Chapter 29, effective July 1, 2021). During the April 27, 2021 joint meeting with the PCRB the discussion included the potential benefits of more broadly authorizing the PCRB’s outside legal counsel to assist the PCRB with the process of developing and drafting an Amended Ordinance and Operating Procedures for City Council’s consideration, so that legal conflicts can be avoided and City Council and the PCRB can have the benefit of legal advice from various perspectives.

Alignment with Council Vision Areas and Strategic Plan: Yes.

Community Engagement:

Community engagement was previously had on this and other PCRB-related topics, in 2019.

Budgetary Impact: None. (City Council has already appropriated funding to the PCRB's annual FY2021 and FY2022 budgets for outside legal counsel services).

Recommendation: It is recommended that City Council amend the provisions of City Code 2-457 to expressly authorize funding within the PCRB's operational budget to be expended for outside legal counsel assistance in developing an Amended Ordinance and Operating Procedures consistent with state enabling legislation.

Alternatives: None recommended at this time.

Attachment (1): Proposed Ordinance

**AN ORDINANCE
TO AMEND AND RE-ENACT CHAPTER 2 (ADMINISTRATION), ARTICLE XVI
(POLICE CIVILIAN REVIEW BOARD), SECTION 2-457 (POLICE CIVILIAN
REVIEW BOARD LEGAL COUNSEL) OF THE CODE OF THE CITY OF
CHARLOTTESVILLE (1990) AS AMENDED, TO EXPAND THE SCOPE OF
MATTERS ON WHICH THE POLICE CIVILIAN REVIEW BOARD MAY CONSULT
WITH LEGAL COUNSEL OTHER THAN THE CITY ATTORNEY'S OFFICE**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLOTTESVILLE that the Code of the City of Charlottesville (1990), as amended, Chapter 2 (Administration), Article XVI (Police Civilian Review Board), Section 2-457 (Police Civilian Review Board Legal Counsel) is hereby amended and re-enacted as follows:

Sec. 2-457. - Police civilian review board legal counsel.

The police civilian review board ~~shall be empowered to employ its own~~ may retain legal counsel to advise the board in all cases, hearings, controversies or other matters involving the interests of the board. The board's chair shall have authority to execute a contract in the name of the board for legal services if the contract has first been approved by the board and been endorsed by the City's director of finance to verify that funding is available and has been appropriated to support performance of the board's payment obligations under such contract. ~~The police civilian review board's executive director, the city attorney, and the police civilian review board chair shall work collaboratively to select legal counsel for the board on an annual basis utilizing best practices for procuring legal services. The board's legal counsel shall advise the board on all legal questions the board may have concerning complaints, reviews of internal affairs investigations, policy recommendations, and community forums. The board and~~ the board's executive director may consult the office of the city attorney for legal advice concerning legal questions unrelated ~~not related to the four (4) aforementioned topics~~ cases, hearings, investigations, or controversies that are before the board, or any other matter in which the board's and the police department's interests may conflict.

BE IT FURTHER ORDAINED that, pursuant to City Code §2-97, the requirement for two readings of this Ordinance is hereby waived, and this Ordinance shall be effective on the same day of its introduction and approval by four-fifths vote of this Council.