

Charlottesville Police Civilian Review Board

January 14, 2021

6:30 p.m.

Meeting Agenda

<https://www.charlottesville.gov/zoom>

- I. Call to Order (James Watson, Chair)
- II. Agenda Approval
- III. Adoption of Minutes
- IV. Announcements
- V. Election of Officers
- VI. Status of Complaints
- VII. Discussion with City Manager Regarding Status of Executive Director Hire and Independent Counsel Contract
 - a. Public Comment (3 Speakers – 3 minutes each)
- VIII. Public Comment Period I (4 Speakers – 3 minutes each)
- IX. Progress on Hearing Procedures
- X. Ordinance and Bylaws Work Group Report
- XI. Public Comment Period II (3 minutes per speaker)
- XII. Adjournment (8:30 p.m.)
 - Next meeting February 11

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Remote participation supported for the duration of the City Manager's Declaration of Emergency issued March 12, 2020.

CHARLOTTESVILLE POLICE CIVILIAN REVIEW BOARD
MINUTES

Date: November 24, 2020

Scheduled Time: 5:00 p.m.

Location: Virtual/Electronic Meeting

Board Members Attending: Bellamy Brown, Nancy Carpenter, Diedre Gilmore, William Mendez, Phillip Seay (joined late), and James Watson

Staff: Joe Rice, Maxicelia Robinson

Guests: Acting City Attorney Lisa Robertson, Sarah Burke (Burke Associates), City Council Member Michael Payne, Liana Perez (NACOLE),

Chair James Watson started the meeting at 5:05 p.m. Chair Watson greeted the guests in attendance and explained the outline of the meeting for the night.

Agenda Adoption – Chair Watson asked for any proposed changes to the agenda; no changes were proposed. Member Carpenter asked that items VIII (c) and (d) moved to become (b) and (a), respectively. The amended agenda was approved unanimously.

Adoption of Minutes – Chair Watson asked the Board to approve the minutes for the November 12 meeting. The minutes were adopted by unanimous vote.

Announcements – Chair Watson wished all present a happy Thanksgiving and suggested all consider what they are thankful for.

Q & A Session with Liana Perez (NACOLE Director of Operations) and Sarah Burke (Burke Associates) - Ms. Perez briefly reviewed her experience police oversight and recalled the initial training for the interim Board three years ago. She stated that NACOLE has had a very heavy workload this year and offered their support to the Board moving forward. Ms. Burke recalled her experiences on the interim Civilian CRB board, and work on police oversight in other Virginia localities.

Chair Watson and other board members asked about getting training specialized to the needs of the Charlottesville CRB. Ms Perez stated that NACOLE has experience providing training on basic operational issues for small, newly founded organizations, as well as specialized guidance on the revision of enabling documents. Member Carpenter suggested that it would be useful if NACOLE could work with a small subcommittee dedicated to revising the Ordinance and Bylaws, and Ms Perez agreed that would be possible. In response to a question from Council Member Payne, she stated that she could provide information and links to small oversight organizations that exercise subpoena power and disciplinary authority. Ms. Perez said that she would begin work

on an outline of a training course for the Charlottesville CRB, which would include material on operating procedures, enabling documents, and COVID considerations.

Chair Watson asked Ms. Burke what opportunities she saw for the CRB in light of the new Criminal Justice Reform legislation. Ms. Burke stated that the Interim Board had worked under strict limits dictated by then-prevailing state laws and the Dillon rule. The Ordinance and Bylaws passed by the City Council further narrowed the scope of authority of the CRB and imposed procedural requirements that limited the Board's access to information and made it difficult for complainants to obtain Board review on police internal investigations. She suggested that given the new legislation, we might wish to re-examine the model we would propose for police oversight. She identified subpoena power, or related information access provisions, as a key to improving openness in the complaint process. She also suggested that the Board may wish to consider a "hybrid" oversight model, instead of our current review-based approach. Under a hybrid model, the Board would have authority to independently investigate serious citizen complaints, as well as internal CPD investigations. Ms. Burke and Ms. Perez agreed that including audit power, along with data access, could be particularly powerful tools for instigating police changes. Ms. Burke noted that the interim Board had performed limited research on organizations with disciplinary power and suggested that we need to begin thinking about how to define "serious breaches" as we consider how to ask for disciplinary authority from the City Council. Ms. Burke mentioned a recent study which found that boards with subpoena power, independent investigatory power, and disciplinary authority were more affective at improving police practices and reducing racial disparities than weaker boards. Both guests stated that having a police oversight Auditor reporting on aggregate police performance was a good approach to influencing change. Ms. Perez noted that achieving independence where oversight staff were appointed by, and reported to, City Managers, was an ongoing challenge faced by many boards.

Chair Watson thanked both guests for the valuable time and insights. Ms. Perez stated that she will pull together an outline for online training tailored to the Charlottesville Board. Ms. Burke also volunteered her assistance as the Board moved forward revising its enabling documents.

Public Comment Period #1 – Chair Watson opened the floor for public comment.

- **Harold Folley** – Mr. Folley said the Board should make sure we are united as a team. He emphasized that community outreach is important and many members of the community don't know what is going on. He also stated that the board should make sure any advisory council empaneled to revise the Ordinance and Bylaws be inclusive. He agreed that the Board has the power to implement a much stronger model and we should have a detailed proposal when we meet with the City Council.
- **Board Comments.** Vice Chair Mendez stated the Board should move forward arranging NACOLE training as quickly as possible. Member Carpenter indicated that recent incidents involving "walking while Black" and physical injury support the need for a stronger oversight model.

Pending Business

1. Work Session with City Council –

Chair Watson stated the need to move forward quickly on revising the Board's enabling documents. Council Member Michael Payne noted that a number of complicated policy issues need to be addressed in revising the documents, including possible adjustments to the oversight model, staffing, and board membership. He suggested delaying detailed work on the revisions until the Board's Executive Director and the Deputy City Manager for Racial Equity are hired, since they would be directly involved in implementing whatever amendments were made. He noted that the City Council and staff will be very busy during early 2021, particularly in March and April when the budget will be finalized. He asked what the Board wished to accomplish at the work session. Mr. Bellamy noted that the Board has started work already on revisions to the documents and would like to present at least an outline to the City Council in February. Member Carpenter suggested that the Board form a task force to work with local stakeholders and NACOLE to develop a draft ordinance to present to the City Council by March.

Deputy City Attorney Robertson noted that the Board did not need to start over again in revising the ordinance; the expanded powers granted in the new legislation can be incorporated by amendments to the current law. She suggested that a good way to move forward would be to begin developing procedures that implement the current authorities of the Board (like holding hearings), and move on to language that implements the procedures for record keeping, subpoena power, disciplinary actions, etc. She suggested that developing procedures and building stakeholder relationships will be important and time-consuming steps in getting the City to grant new powers to the Board.

Council Member Payne stated that members of the City Council have limited technical knowledge of oversight models and successful approaches and need to be educated. He asked that the Board maintain communication with the Council. Chair Watson agreed with the need for good communication. He suggested that NACOLE might be able to assist in facilitating a work session.

2. Review of Complaints

Chair Watson reported that the Board has received eight complaints this year, and one hearing request. He indicated that the Board cannot discuss the particulars of complaints that are currently under review. Member Carpenter asked if we are sure that we have received all the complaints that have been filed with the CPD. Member Brown answered that the CPD has generally been very cooperative in forwarding complaints, although the precise procedures for forwarding need to be formalized.

3. Institutional coping during COVID

Chair Watson made a short presentation about how the Board can better move forward during COVID. Elements included more direct outreach to community champions, participation in socially distanced events, and enhanced social media presence.

4. Hearing Procedures

Member Brown presented a PowerPoint summary of draft hearing procedures. The document includes sections related to quorum requirements, scheduling/rescheduling of hearings, hearing

format and duration, methods for receiving and hearing evidence, cross-examination procedures, procedures for deliberation, standards/burden of proof, and reporting of determinations. Also addressed were how to avoid conflicts of interest, the need for confidentiality statements, and procedures for closed sessions where confidential information is to be discussed. He noted that language needs to be added to the procedures regarding how to except recording media and other forms of evidence that are not currently allowed. Ms. Robertson noted that, if necessary, hearings can be held electronically, and the city would supply staff support. Ms. Carpenter suggested that the Board consider establish a regular schedule for holding hearings.

Public Comment Period #2 –

- **Katrina Turner** – Ms. Turner asked if the board revert to old bylaws and build a new Ordinance and Procedures and from that. She stated that the unfilled board seat should be filled and that Rosia Parker is highly qualified.
- **Sarah Burke** – Miss Burke agreed that building on the old ordinance might be a good idea and that the open board seat should be filled. She said that the Board should continue to function under the current ordinance and bylaws and that the effort to draft new enabling documents should not be delayed by waiting for the city to hire the Executive Director and Deputy City Manager. She also asked about the role of independent council in hearing procedures. She noted that some of language in proposed hearing procedures seems discouraging to complainants.

Council Member Payne encouraged the Board to continue communicating with the City Council and expressed his willingness to remain involved in the process.

Chair Watson adjourned the meeting at approximately 7:08 P.M.

Next Meeting: December 17, 2020 at 6:30

CHARLOTTESVILLE POLICE CIVILIAN REVIEW BOARD
MINUTES

Date: December 17, 2020

Scheduled Time: 6:30 p.m.

Location: Virtual/Electronic Meeting

Board Members Attending: Bellamy Brown, Nancy Carpenter, William Mendez, Phillip Seay, and James Watson, Dorenda Johnson

Staff: Brian Wheeler, Maxicelia Robinson

Guests: Acting City Attorney Lisa Robertson, City Council Member Michael Payne

Chair James Watson started the meeting at 6:33 p.m.

Agenda Adoption – Chair Watson asked for any proposed changes to the agenda. Member Carpenter asked if the agenda might need to be changed to make more room for public comments regarding specific complaints and the need for changes to the complaint form. Mr. Wheeler stated there was only one individual waiting to speak, and the Agenda was adopted without modification.

Adoption of Minutes – Chair Watson asked the Board to approve the minutes from the November 24 meeting. They were adopted by unanimous vote.

Announcements – Chair Watson stated that the City Manager is currently negotiating a contract with the Board’s independent counsel, and that the negotiations should be completed in January. The Chair thanked the Board for their hard work while he was away on business.

Status of Complaints – Chair Watson reported that this year the Board has received eight complaints, and that six are closed and two are active. He stated that the board had sent a letter to Mr. Hoffman asking if he wished the board to review the Internal Affairs findings regarding his complaint.

Public Comment Session I

Tracy Hopper- Ms. Hopper expressed concern about the unfilled vacancy on the Board which affected its ability to perform its duties.

Harold Folley – Mr. Folley stated that the People’s Coalition wants the board to be successful and understands that they have a lot of work to do. He was concerned about the lack of response to Chief Brackney’s press conference and asked if there had been a breakdown in communication.

Walt Heineke – Mr. Heineke welcomed Bellamy Brown to the Board.. He referred the board to the original resolution that founded the PCRb and expressed concern about a possible loss of energy since the early enthusiasm. He inquired about progress on the

hiring of the Executive Director and Independent Council and filling the open Board position. He suggested that the Board use the original ordinance proposed by the Interim Board as the basis for implementing expanded powers granted by the new legislation.

Molly Conger – Ms. Conger stated that the board should have responded strongly to Chief Brackney’s press conference. She stated that if the Chief’s vilification of the complainant and his church remained unchallenged, the Board would lose all credibility and the public would lose trust in the complaint process.

Board Comments

Vice Chair Mendez stated that while he found the Chief’s statements unfortunate, the Board should not respond in kind. He stated that the case showed the lack of trust and communication between the Board and the Police and, above all, showed the weakness of the Board’s current oversight model. He suggested that proposed changes to the Board’s ordinance and procedures would call for much greater access to information.

Member Brown noted that the public is not aware of much of the work done by the Board “behind the scenes”, mentioning work on hiring an Executive Director, independent council, and development of hearing procedures. He stated that the City Manager and City Council have ultimate authority over the Police Chief.

Chair Watson stated that the current board process is passive, and we are not yet fully staffed. Currently there are barriers to the Board making statements about ongoing complaints and we need a new ordinance to allow quicker response. The current complaint process depends too much on police investigating themselves. He said that the Board needs independent investigative power, and sufficient budget to support its operations.

Ms. Carpenter stated that the Board needs to be a strong liaison between the people and police. She agreed that the Board needs independent investigative power. The current communications breakdown illustrates the need for the Board to work more with the public.

Ms. Johnson said that the Board does not have support from the City and without that support gaining public trust and doing our job will be very hard. She cited a lack of leadership from the city government and questioned whether they want to have open communications on police oversight at all.

Board Member Seay said we are doing the best we can with the insufficient resources and powers we have. He said he sympathized with the frustration of many in the community who have been waiting a very long time for police reform.

Clarification of Complaint Receipt Process – Chair Watson pointed out that current complaint form used by the Charlottesville Police Department is “opt-in” (that is, it requires complainants to request complaints be forwarded to the CRB.) Our enabling ordinance, however, specifies that all complaints be forwarded to the CRB within 48 hours. In addition, the current PDF form is not very user-friendly. Bellamy Brown introduced the following resolution:

In accordance with Article II, Sec. A of the PCRb bylaws; and Chapter 2, Article XVI, Sec. 2-458 of the Charlottesville City Code; and in consultation with The People’s Coalition, the Board adopts a formal position statement requesting the Charlottesville Police Department amend its current Citizen Complaint Form; to include the OPT-OUT language, “check here if you do not want your complaint sent to the Police Civilian

Review Board,” in addition to requesting reorganization of the remaining parts of the form to be more user friendly to the public.

Additionally, the Board requests on behalf of The People’s Coalition, Sec. IV, Subsection C, No. 1 of the Charlottesville Police Department’s General Order No. 49-99 be amended to reflect the current process that, “a copy of the complaint or service-related inquiry be forwarded” also to the Police Civilian Review Board.

The resolution passed unanimously.

Advisory Panel on Revisions to Ordinance and Bylaws -

Vice Chair Mendez reported on the first meeting of the ad hoc work group to support the board with the revision of the enabling ordinance and development of new operating procedures. A Zoom meeting on December 11 was attended by Board Members Brown and Mendez, as well as Sarah Burke and Guillermo Ubilla (members of the Interim Board), Maisie O’Steen of the LAJC, and Gloria Beard and Katrina Turner representing the People's Coalition. Mr. Mendez stated that the purpose of the first meeting was to hear specific member concerns regarding police oversight and to plot a general strategy for the revision of the enabling documents. He reported that the group consensus was tending toward a hybrid model that includes investigative power and expanded access to information, along with review, and potentially an auditing function. The next steps included research to identify best practices for exercising specific powers (investigation, information access, disciplinary power) in small-medium size cities.

Options for in-person NACOLE training – Chair Watson reported that the Board has received a training proposal from NACOLE. The proposal includes eight sessions totalling 12 hours of live classes on topics relevant to the current status and future operations of the Charlottesville CRB. The proposed cost for the classes would be \$5,400. NACOLE stated that they were flexible with regard to scheduling and that they routinely record training sessions. Chair Watson reported that the City Manager had agreed to fund the training.

Annual Report Outline – Vice Chair Mendez presented an outline of the Board’s Annual Report required by our enabling ordinance. He requested inputs from Board Members in their areas of activity, and on any specific issues and recommendations that they would want to propose to the City Council. He stated that he would begin drafting the text of the report and provide a draft to the Board at the next meeting.

Pending Business:

Board Vacancy – Council Member Payne reported on progress on filling the vacancy in the Board. He stated that the City Council had not pursued the issue previously because there were questions about what types of expertise would be needed to best meet the needs of the Board in light of likely changes in the enabling document and powers. He stated that the Council would issue a new application for Board volunteers on Monday December 21, and that the Council would consider applications (both new and those renewed by previous applicants) at its first meeting 30 days after the application was released.

Executive Director Interview - Chair Watson reported that the interviews for the remaining Executive Director candidates were scheduled for January 6. None of the staff present new the number of remaining candidates, but there were at most five finalists. Mr. Mendez inquired as to the powers of the Board interviewers in the selection of the Executive Director. Assistant City Attorney Robertson replied that the current statute calls for the City Manager to explain their reasons for not hiring a candidate preferred by the Board interviewers. The Board briefly discussed methods for Ms. Brown and Ms. Johnson to present their recommendations to the board before submitting them to the City Manager.

Public Comment Period #2 –

Sarah Burke – Ms. Burke stated that she appreciates the importance of our behind-the-scenes work, but that openness and transparency are important. She said that there is no legal bar to the Board discussing public information and we should speak out where necessary. She suggested that there should be no opt-out language at all on the complaint form; the Board should automatically get all complaints.

Don Gathers – Mr. Gathers also expressed concerns about transparency. It is necessary for us to meet the needs of the community. Also, he asked if we have qualified applicants, why do we need more candidates for the vacancy on the Board?

Walt Heineke – Mr. Heineke asked when is the Board going to hire independent council; their help will be important as we revise the ordinance and bylaws. He also asked if there would be citizen representatives on the ED interview panel?

Chair Watson announced that we will be electing a new Chair and Vice Chair

Miss Carpenter stated that the public outreach subcommittee was planning to hold two Zoom meetings with local churches in January, explain the Board's history and powers, the complaint procedure, and the implication of the new criminal justice reform legislation.

Chair Watson adjourned the meeting at approximately 8:09 P.M.

Next Meeting: January 14, 2020 at 6:30