

**CHARLOTTESVILLE POLICE CIVILIAN REVIEW BOARD MEETING
MINUTES**

Date: August 12, 2021

Scheduled Time: 6:30 p.m.

Location: Virtual/Electronic Meeting

Board Members Attending: Bellamy Brown, Nancy Carpenter, Jeff Fracher, William Mendez, James Watson

Staff: Brian Wheeler, Maxicelia Robinson

Guests: City Councilor Michael Payne, CRB Counsel Cynthia Hudson

Chair Bellamy Brown called the meeting to order at 6:35 p.m.

Agenda Adoption – Vice Chair Mendez proposed an alternative agenda that placed public comment periods after the discussions of hearing procedures and the proposed ordinance but before the Board votes on these issues. This would allow the Board to hear public concerns before voting. Ms. Carpenter proposed that the agenda should begin with a moment of silence in remembrance of the events of August 12, 2017; Seconded by Fracher. The revised agenda was adopted unanimously, and Chair Brown lead the Board in a moment of silence.

Adoption of Minutes – Mr. Mendez reported that the July 8 minutes were currently lost somewhere on his computer, and he would provide them shortly. The Board voted (Motion: Fracher; Second: Carpenter) to approve the July 14 minutes unanimously.

Status of complaints – Chair Brown reported that two complaints had been forwarded to the Board since our last meeting, one by an African American female for “professionalism” and one for failure to adequately address a noise complaint. All complaints have been closed at the time of the meeting.

Executive Director Recruitment Process – Chair Brown recused himself from discussion of this item on the basis that he has been a candidate for the Executive Director position. Vice Chair Mendez reported that the interview panel had identified two very qualified candidates and, in consultation with the Deputy City Manager, recommended them to the City Manager for consideration. Mr. Mendez stated that one of the candidates had received and accepted another offer, but that City Manager was in the process of making a job offer to the second highly qualified individual. Dr. Fracher stated that the initial interview process had involved participants from many city departments, but the final two candidates were preferred both by the participating Board members and City Manager’s representatives. In reply to a question from Ms. Carpenter, Dr. Fracher and Mr. Mendez confirmed that the interview panel conformed to the letter of the Board’s current enabling ordinance. Mr. Mendez thanked the interviewers for their hard work.

Discussion of Hearing Procedures –

Vice Chair Mendez asked if there had been any new public comments on the Hearing Procedures and whether any significant changes had been made since the last meeting. Chair Brown responded that there had not been any new comments nor had any significant changes been made. There were no other comments or question from Board members

Public Comment Session I (Hearing Procedures)

Sarah Burke – Ms. Burke stated it was unclear whether verbal comments have been incorporated since the last meeting. She requested an update.

In reply, Ms. Hudson noted that the draft copy displayed at the last meeting was not the latest version. The most current version responds to many of the issues raised at the special meeting, including a provision that allows cross examination at the discretion of the Board that recognizes concerns related to both potential intimidation and due process. She noted that there was still a placeholder “10 days” in Section 3(a)(1) related to the time allowance for the CPD to provide evidence to the Board. Chair Bellamy suggested that it would be natural to interpret this as meaning 10 business days, with agreement from Board Members Fracher and Watson.

Mr. Watson inquired as to what power the Board had to enforce the information provision requirement. Ms. Hudson stated that the ordinance provides for enforcement. Ms. Carpenter asked about concerns related to requiring complainants to submit questions in writing. Ms. Hudson indicated that the latest draft allows, but does not require, any parties to submit written questions, and gives the Board final say as to what questions are asked at the hearing, reiterating that the Board could also allow cross examination at its discretion. She also noted that the concern relating to allowable inferences based on failure to appear (Section 4(b)) was addressed by requiring that such inferences be based on objective standards of reasonableness.

Vote on Hearing Procedures – Vice Chair Mendez moved that the Board to Adopt the Hearing Procedures with the amendment that specifies 10 business days in Section 3(a)(1); Seconded by Fracher. The motion was carried unanimously.

Discussion of Proposed Ordinance

Vice Chair Mendez noted that the revised version of the ordinance furnished to the Board incorporated responses to several last-minute public comments. Most of the changes from the previous version were minor edits with two substantive changes: First, in response to a concern raised by Ms. Burke, the new language has been inserted in Section 2-466 to the effect that the City Council has final approval of changes to Board Operating Procedures, but only after a majority of the Board recommends such changes. In addition, added language in Section 458(c) allows the Board to review IA investigations outside of the time limits specified in 458(b) if the Board determines there is good reason to do so (for example, if new evidence becomes available.) It also makes clear that the Board can still have access to closed IA files if they are needed as part of an audit.

Public Comment Period #2

Teresa Hepler – Ms. Hepler complimented the Board on it’s hard work in producing an ordinance that balances concerns of the Council and the public. She expressed concern that the current

ordinance language does not guarantee that all complaints will be investigated. She wanted stronger assurances that the Board would have the authority to investigate any complaints.

Sarah Burke – Ms. Burke also thanked the Board. She wanted assurance that the Board can continue to function during the interim while the Council is considering the new ordinance. She recommended that the ordinance be amended to give the Executive Director or his/her staff power to conduct investigations and audits without hiring an investigator. She indicated that this would be a cost-saving measure and could result in more investigations. She expressed concern that the Board’s power to review IA investigations still requires a review request. Finally, she questioned why the Board’s authority to make disciplinary recommendations was restricted to serious allegations and requested that Draft documents should be provided to public in advance whenever possible.

Mr. Mendez responded to several comments. He stated that the Board will continue to operate (and is in fact required to do so) under force of the current ordinance until a new ordinance is approved, however long that takes. He noted that the power of the Executive Director (ED) had been discussed by the Board and the decision was made not to assign primary investigatory role to the ED in order to emphasize the authority of the Board to conduct fully independent investigations. He suggested that the operating procedures might include provision that would specify limited conditions under which a qualified Executive Director could conduct investigations. In response to Ms. Hepler, he stated that the current ordinance language relating to investigations was meant to be as broad as possible, and that specific criteria for initiating investigations would be spelled out in the Operating Procedures. He also stated his willingness to postpone voting on the ordinance until outstanding issues had been resolved.

Chair Brown recommended moving forward with a vote, noting that amendments would be possible at a later date. Ms. Carpenter and Dr. Fracher agreed that the Board should vote. Mr. Mendez noted that extensive discussions would be required to a Council vote and that “this was nobody’s last bite at the apple.”

Vote on Proposed Ordinance

Mr. Mendez suggested that the Board might wish to vote on a formal transmittal resolution to go along with the ordinance. Ms. Hudson suggested that it would be easier to just vote on the ordinance since the proposed resolution had not been discussed by the Board. Mr. Mendez moved that the proposed ordinance be approved by the Board and sent to the City Council for their consideration; Seconded by Watson. The motion was carried unanimously.

Old Business

Chair Brown noted that the Ms. Carpenter expressed the desirability of obtaining all the results of the CPD Climate Survey. Ms. Carpenter moved that the Board request the results; Seconded by Fracher, and the motion was approved unanimously

Chairman’s Statement

Chair Brown read a personal statement concerning “Police Leadership and Its Community Impact.” The full text of the statement is included below as Attachment 1.

Dr. Fracher stated that his discussions with stakeholders generally support the substance of Mr. Bellamy's comments related to low morale on the CPD. Mr. Watson stated that discussing the topics raised by Mr. Brown represented a major step in continuing transparency to the public; he expressed a strong desire to see the actual data related to police attitudes.

Public Comment Session #3 -

Jeff Fogel: - Mr. Fogel stated that the Board was "getting ahead of yourselves" if it concludes that all the problems with police morale are due to bad management, noting that the PBA has historically been against strong police oversight. He suggested that the negative comments from the police rank and file may have been in part a response to the CPD's decisive actions on specific incidents of misconduct. He noted that he has often stated his concerns with the IA process, but the Board needs more specific information related to police leadership. In his experience, the mentality of police rank-and-file has been a major problem. He urged the Board not to "jump on board" with the PBA.

Adjournment:

The meeting was adjourned by unanimous Vote at 7:48 PM.

Next Meeting: September 9, 6:30 PM.