

## CHARLOTTESVILLE POLICE CIVILIAN REVIEW BOARD MEETING

### MINUTES

**Date:** October 14, 2021

**Scheduled Time:** 6:30 p.m.

**Location:** Virtual/Electronic Meeting

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

**Staff:** Brian Wheeler (Communications), Maxicelia Robinson (Clerk), Hansel Aguilar (E.D.)

**Guests:** Deputy City Manager Ashley Marshall, Assistant Chief Tito Durette, CRB Counsel Cynthia Hudson

**Call to Order:** Chair Bellamy Brown called the meeting to order at 6:30 p.m.

#### **Agenda Adoption -**

**Vice Chair Mendez-** Motioned to include “*Discussion on the proposed amendment to interim hearing procedures.*” Motion was seconded by Dr. Fracher. Ms. Carpenter sought clarification on public comment section and its placement. Ms. Robinson pulled the Board and motion to amend the agenda passes (5-0). Vice Chair Mendez clarifies that minutes for last meeting would be provided at the next month meeting.

#### **Interim Procedures -**

Vice Chair Mendez discussed progress and work of hearing procedures. He mentioned that the City Councilors (via workgroup) mentioned that a *hearing officer* should be part of the hearing process. Dr. Fracher emphasized that the hearing procedures are for the interim and asked Ms. Hudson if she had additional comments on the procedures, but she did not at that time. Mr. Watson asked Mr. Aguilar whether in Fairfax they had *hearing officers* in Fairfax and Mr. Aguilar indicated that the Fairfax model does not have hearing officers, but the DC model does. Ms. Carpenter indicated she had reservations with the usage of the word “*officer*” and sought to see if it could be amended to “*examiner*”. Vice Chair Mendez accepted the friendly amendment and indicated that there was no attempt to suggest that the *hearing officer* would be a *police officer*. Ms. Carpenter sought clarification if there was a sunset clause on the procedures and Vice Chair Mendez indicated that there was an implied clause and that once the new ordinance passed, the new procedures would be in place. Motion to vote on procedures as amended was made by Vice Chair Mendez and seconded by Dr. Fracher. Prior to voting, Vice Chair Mendez reminded that public comment was necessary prior to voting.

#### **Public Comments (1) –**

Mr. Don Gathers called in to inquire how this would be beneficial to the public. He expressed concerns that a hearing officer/examiner could be prejudicial if he has a background in law enforcement.

#### **Response to Public Comments (1) –**

Vice Chair Mendez indicated that the Board would be assisted by the hearing officer/examiner by ensuring due process. He indicated that the hearing officer/examiner may also be a civil rights attorney. Dr. Fracher clarified that it does not necessarily have to be someone who worked in the criminal law field. He added

the purpose was to keep the process fair. Chair Brown asked Ms. Hudson if she had any commentary about the use of a hearing officer/examiner. Ms. Hudson indicated that there was no legal prohibition on the Board implementing such a feature to the process and there is precedent in other similar bodies. Chair Brown called a vote and Ms. Robinson conducted the vote on the motion to adopt the hearing procedures (as amended). Amendment carries unanimously.

#### **Status of Complaints –**

Chair Brown provided update on complaints received since last meeting. Vice Chair Mendez indicated that community members have made requests regarding the origins of the complaint (i.e. internally or externally generated).

#### **Finance Report-**

Chair Brown provided update on the finances of the Board. He indicated that the report has not changed much since last time.

#### **Introduction to ED**

Mr. Aguilar provided introductory remarks. He provided a brief professional background and his vision for civilian oversight of law enforcement in the City of Charlottesville. Ms. Carpenter asked Mr. Aguilar if he was open to collaborating with Peace in the Streets and B.U.C.K Squad. Mr. Aguilar responded that he was aware about those groups and still learning more about other potential partners. Vice Chair Mendez asked about complaints software. Mr. Aguilar informed the Board that he is currently working with IA and attempting to identify the best system for all parties. Chair Brown, Mr. Watson, Ms. Carpenter and Dr. Fracher welcomed Mr. Aguilar to the community.

Ms. Carpenter informed the Board that she reached out to Major Mooney to provide an update on the potential changes and amendments to some general orders. Those policies were sent by Chief Brackney approximately a year ago. Ms. Carpenter stated that some of the language was outdated and

#### **Remarks by Assistant Chief Durette**

Major Durette introduced himself to the Board. He provided a brief overview of his service record in the department. He indicated that he has met with Mr. Aguilar and will continue to work with him and the Board to make sure there is justice across the board.

Dr. Fracher thanked Major Durette for attending.

Vice Chair Mendez asked who the point of contact regarding interim procedures will be. Major Durette said that inquiries could be directed to him and he will work on delegating matters to appropriate CPD designees.

Mr. Watson asked about any specific actions, processes, or strategies that the CPD will implement to help the community regain trust in the CPD. Major Durette acknowledged that the community is “hurting” and that the strategy will be to establish some “courtship” in order to continue the trust building. Major Durette indicated that it is important to treat individuals, fairly, equitable and as humans. Mr. Watson followed up to inquire about recruiting practices and whether the CPD is focusing on local recruitment. Major Durette indicated that there is a strong relationship with Piedmont Community college that helps in recruitment, but also acknowledged that recruitment of law enforcement is an issue nationwide.

Chair Brown asked if he knew about any upcoming changes in the Spring. Major Durette indicated that he did not know of any changes other than his upcoming retirement.

Ms. Carpenter asked about the possibilities of reviewing budget proposals of the CPD. Chair Brown allowed DCM Marshall to provide some information about budgeting season. DCM Marshall indicated that the City is moving into a system where the City budget's will be more readily available to the public. She indicated that she will be working with the PCRB ED and Chair to ensure that the budget needs of the PCRB are reflected. She assured that the Board will be informed of the process every step of the way so that they could have an input.

### **Public Comments (2) –**

Community members expressed concern about an "email" between Chair Brown and Councilor Hill. Specifically, Ms. Turner read the text of the message between the two parties. She felt the text was disrespectful to various community members. Ms. Turner also expressed concerns about the current Chair of the PCRB.

Another community member, Andrew Shelton called in to express concerns about the no-confidence vote and the participation of the Chair in that vote.

Don Gathers called in to welcome Mr. Aguilar and express concern about the messages between Chair Brown and the city councilor. He also expressed concern about the lack of discussion from PCRB members about the incident.

### **Code of Ethics**

Vice Chair Mendez explained the purpose of a code of ethics for the Board and repercussions for non-compliance (i.e. removal of Board members). He presented the Fairfax Co. Civilian Review Panel and the Salt Lake City Civilian Review Board code of ethics.

Ms. Carpenter expressed the code will be important to consider given statements that could have been harmful to different communities.

Dr. Fracher discussed the challenge with First Amendment rights of the Board members and portraying neutrality and remaining impartial.

Vice Chair Mendez expressed that some first amendment activities could be appropriate insofar as it does not contradict the Board's work.

Mr. Watson expressed his support for a code of ethics. He stated that some actions are not appropriate for Board members to participate in (i.e. speaking directly to complainants and or their attorneys). Mr. Watson provided the opportunity for Chair Brown to explain some of his statements.

Chair Brown accepted the opportunity to discuss some activities. He clarified that he has never spoken to complainants. He said he spoke to an attorney of the complainant in order to discuss the logistics of holding the hearing. He elaborated that the other comments that are being misrepresented by members of the public were taken from a private conversation that was accessed through a FOIA request by Chief Brackney and subsequently passed along to members of the public. He indicated that he would not elaborate further on other matters until a later time so that he could speak freely and not impede with the work of the Board.

**Public Comments (3) –**

Ms. Turner expressed that the explanation that Chair Brown provided was not acceptable. She asked Mr. Aguilar to clarify what his race was, but no response was given. Ms. Turner called on the Board to challenge the Chair on his statements and to “get rid of Mr. Brown.”

Ms. Beard called in to express discontent with the Chair and requested an apology from Chair Brown for his past statements.

Adrian Dent expressed interest in a town hall and or community discussions led by the PCRB.

The meeting was adjourned at 7:45 PM with unanimous vote.

Next Meeting: November 18, 6:30 PM.

## CHARLOTTESVILLE POLICE CIVILIAN REVIEW BOARD MEETING

### MINUTES

**Date:** November 14, 2021

**Scheduled Time:** 6:30 p.m.

**Location:** Virtual/Electronic Meeting

**Board Members Attending:** Bellamy Brown, Jeff Fracher, William Mendez, James Watson, Diedre Gilmore

**Board Members Not Attending:** Nancy Carpenter

**Staff:** Brian Wheeler (Communications), Maxicelia Robinson (Clerk), Hansel Aguilar (E.D.)

**Guests:** City Councilor Michael Payne, CRB Counsel Cynthia Hudson

**Call to Order:** Chair Bellamy Brown called the meeting to order at 6:30 p.m.

#### **Agenda Adoption –**

Vice Chair Mendez- Motioned to include a status report on review request and discussion of efforts to secure complaints software. Motion was seconded by Dr. Fracher. Agenda was amended unanimously.

#### **Adoption of Minutes-**

Vice Chair Mendez clarified that the minutes posted were for the September minutes. Motion to approve minutes was made by Vice Chair Mendez and seconded by Dr. Fracher. The September 2021 minutes were unanimously adopted.

#### **1<sup>st</sup> Public Comment (3 minutes per speaker) –**

No hands were raised for the first public comment section.

#### **Status of Complaints –**

Mr. Aguilar provided summary a summary of the complaints received by the Board since the October meeting. Specifically, he indicated that the Board received:

- 1 closure letter
- 2 review requests:
  - In one request a complainant indicated that he believed his allegations were not thoroughly investigated by IA because they refused to review his video evidence.
  - In the other request, an unrelated complainant indicated he was not satisfied with the IA investigation, but was working with a CPD captain to have his issues addressed.
- 2 initial complaints:
  - One complainant indicated she was subjected to police misconduct in or around April 2019 which would make the case time barred from PCRb review.
  - Another unrelated complainant indicated that she was dissatisfied with the tone and demeanor of a dispatcher. These allegations are not investigated by CPD because dispatchers are not CPD employees but rather ECC employees with Albemarle County.

#### **Ordinance Update/Discussion –**

Vice Chair Mendez indicated that two documents were posted to the website: current draft of the ordinance and summary of changes since last draft to City Council. The purpose of the drafts release was to provide an update on the work done and to seek additional public input from the community. He indicated that there was not sufficient time to resolve all outstanding matters which is why the ordinance draft was posted to represent a “work in progress” version. The Vice Chair indicated that the document still needs to undergo legal review and full review of entire City Council. The document will receive additional amendments and final approval by City Council.

Outstanding issues:

- When can the Board investigate incidents?
- When can Board review IA investigations?
- How to protect the privacy of complainants?
- What power does the Board have to monitor investigations of the CPD?
- Under what circumstances can Board provide disciplinary recommendations?
- What are the procedures for subpoena?
- What are the grounds for removing Board members?

Areas of possible disagreement:

- Reluctance on discretion of when Board can investigate
- “Legal controversy”: Disciplinary determinations would only be allowed if Board can review the file in closed session, but current City legal interpretation of FOIA law would prohibit a Board like the PCRB to have a closed session to review personnel records that would inform disciplinary recommendation (this is aligned with a legal interpretation in the City of Alexandria). This matter remains to be worked out in general, but the City Attorney will find ways to have the Board review the pending case until this legal interpretation gets resolved.

Vice Chair Mendez indicated that he and Dr. Fracher will continue to work with Council to resolve outstanding controversies.

Dr. Fracher further commented that Councilor Snook and Payne came to the table “open-minded” to attempt to resolve the issues. He also indicated Vice Chair Mendez spent considerable time and effort in the process. He explained that not all that the Board wants will necessarily be accepted, but that he is ultimately pleased with the way the ordinance is shaping out.

Chair Brown noted that there is a conflict with the wording of Sec 2.457 A. and Sec 2.452 C. regarding the triage of complaint intake. Vice Chair Mendez stated that this has been part of discussion with Councilors Payne and Snook. Chair Brown asked for Ms. Hudson to weigh in on the interpretation of these sections. Ms. Hudson indicated that one of the legal issues at play with that section is the enabling legislation that requires a process for law enforcement to receive and examine complaints of misconduct. The question would be whether a joint process will satisfy that requirement of the enabling legislation. She indicated that under the new law, it would not necessarily be possible for the intake to be all Board, all the time. Chair Brown questioned the potential redundancy of the two sections. Vice Chair Mendez discussed the issue of confidentiality and dealing with complaints where a complainant does not wish for the Board to review the matter. As a final comment on the matter, Vice Chair Mendez urged “folks” to review the draft and to continue to provide feedback wherever necessary like simplifying the language.

**Complaint Management Software –**

Mr. Aguilar provided an update on the search for a complaint management software. He commented that there are many general use software programs available but not too many dedicated to civilian oversight of law enforcement complaints. He highlighted one program- Sivil. He provided an overview of its functionality via the Zoom shared screen functionality. Vice Chair Mendez stated that the idea is to simplify the process of filing complaints for individuals, but also provide them the alternative options like calling the Board or the Police Department to file a complaint and have the intake staff member upload the information into the system.

Dr. Fracher indicated that this would streamline the process and address some of the outstanding concerns. Mr. Watson commented on the importance of having up to date mechanisms to receive complaints. Additionally, he stated that we want to ensure that there are still ways for complainants to file complaints if they do not have access to technological means. Mr. Aguilar assured that those routes would still be in place. Chair Brown inquired about the price point for this software. Vice Chair Mendez stated that we are exploring various options, but that Sivil is relatively new and would be Beta users that would not pay any up-front costs. He indicated that there are trade-offs to such arrangements.

Chair Brown sought clarification as to how new the software was. Mr. Aguilar indicated that the software went live in the summer of 2021 but has been working with the Long Beach oversight agency for at least one year. Chair Brown expressed concerns about potential issues that may come with working with a new organization. Vice Chair Mendez acknowledged that those concerns are valid. Chair Brown asked whether the product has been endorsed by NACOLE. Mr. Aguilar indicated that traditionally NACOLE does not endorse products, but that the company is working with NACOLE. Chair Brown inquired whether a conversation with Camme (training staff person from NACOLE) was held. Mr. Aguilar stated that a conversation regarding this software has not been held. Mr. Watson expressed the importance of ensuring that there is synergy with CPD so that it does not get complicated. Vice Chair Mendez stated that representatives of CPD were present at the Sivil demo and that they appeared to be impressed. Vice Chair Mendez stated that it may be a good option to try this software out so that CPD may feel more comfortable in its usage. Chair Brown stated that is a possible route, but that we need to consider what a joint process looks like. Vice Chair Mendez indicated that we could work jointly without necessarily using the same software.

Dr. Fracher sought clarification as to what the next steps were in the process. Mr. Aguilar indicated that he has been working closely with the Vice Chair and is willing to consider what the Board needs but reminded that it is important to move in a timely manner because it could be detrimental to have backlog issues. Dr. Fracher suggested that it may be helpful to arrange a time to have a demo of several companies at once. Vice Chair Mendez stated he partly agrees with the suggestion but stated it may be difficult to arrange demos before the new year.

Mr. Watson suggested it may be helpful to get a status update on the budget to look at what options could be explored and to also look at more training options. He suggested it may be helpful to get a monthly budget report.

### **Status Report on Review Request**

Vice Chair Mendez indicated that there is a pending review request. He indicated that Mr. Aguilar suggested having a mock hearing. Vice Chair Mendez stated that the pending review request hearing was put on hold because of the pending legal "controversy", but that he received an email from the City Attorney expressing that could be provisionally resolved for the hearing. Mr. Aguilar clarified on the

importance of a mock hearing for getting the Board comfortable with the process. Ms. Hudson stated that she believes something could be worked out with the City Attorney to move forward in the process.

Mr. Watson asked on the number of vacancies of positions on the Board. Chair Brown indicated that there are two positions vacant. Mr. Watson appealed to Councilor Payne to fill those positions as soon as possible and to prioritize individuals that may have direct lived experience with policing issues like “minorities” or “females” and or “mothers.” Chair Brown stated that selections of the volunteers need to be careful with potentially discriminating if they put specific restrictions. Mr. Watson stated he was mindful of discriminatory issues and did not suggest that individuals should be discriminated but that Council should try to diversify as much as possible. Vice Chair Mendez stated it is also important for the Board members to try to recruit community members. Mr. Watson also commented on the consideration for certain City employees to be able to serve if they do not have conflict of interest.

**Public Comment (3 minutes per speaker)-**

Mr. Harold Folley called in to provide a quick history on the Board and who it was intended to serve. He expressed concerns with “four white men” without lived experience “compromising” with City Council on what should be in the ordinance.

Ms. Katrina Turner called in to clarify that there have been Black women who have applied to the Board. Specifically, she stated that Rosia Parker, a member of the Initial PCRB, has consistently applied but has been denied. She indicated that others have also applied and have been turned down. Ms. Turner asked why the “lawsuit” has not been mentioned. She expressed concerns that Board members have been mentioned in the lawsuit.

Ms. Gloria Beard called in to seek clarification as to whether the Board has been able to hear any cases or complaints. Vice Chair Mendez indicated that at this point the Board does not have the power. Ms. Beard asked about the outreach of the Board to the community. She stated community members do not know about the Board and wanted to know how the word is getting out to the public. Mr. Aguilar expressed appreciation for the concerns and stated that he has been meeting with different stakeholders to put together a strategic outreach plan.

Vice Chair Mendez urged community members to review the document thoroughly and bring forth any concerns and suggestions for improvement.

Vice Chair motioned for adjournment which was seconded by Dr. Fracher.

The meeting was adjourned at 7:55 PM unanimously.

Next Meeting: December 9th, 6:30 PM.



**CHARLOTTESVILLE POLICE CIVILIAN REVIEW BOARD**  
**MINUTES**

**Date:** December 9, 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:** Hansel Aguilar (Executive Director), Maxicelia Robinson, Remy Trail

**Guests:** Cynthia Hudson (CRB counsel)

**Chair Bellamy Brown** called the meeting to order at 6:30 p.m.

**Agenda Adoption** –The proposed agenda was approved unanimously.

**Adoption of Minutes** – Vice Chair Mendez said that the minutes for October and November meetings were not yet available but would be posted prior to the next meeting.

**Public Comment Session I**

No members of the public requested to speak.

**Status of Complaints**

Executive Director Aguilar stated that two complaints had been received since last meeting; there were no review requests, and no closure letters were issued. The first complaint was from a woman who stated that a police officer had provided insufficient assistance to physically impaired individual. She questioned the officer's tone, lack of sincerity, and apparent indifference to the condition of the individual. The other complaint was filed by an African American woman who claimed that an officer had been harassing her and had handcuffed her for failing to provide identifications.

**Status of Revised Ordinance and Operating Procedures**

Vice Chair Mendez reported that the City Council had discussed the revised oversight ordinance at their December 6 meeting, and that the reception from the Councilors had been generally positive. The Council was scheduled to hold a final vote on the ordinance, after legal review, at their last meeting of the year on December 20. Assuming the ordinance was passed, it would then be necessary to develop a municipal Standard Operating Procedure defining the relationship between the Board and the Police Department related to information sharing and complaint processing. The City Attorney has suggested that she provide a first draft of the SOP after consultation with the Executive Director and Interim Chief of Police. It would then be necessary for the Board to develop its own Operating Procedures relating to hearings and the exercise of its

other powers. Mr. Mendez then provided an overview of the draft ordinance and remaining issues to be resolved (see Attachment.)

Chair Brown and Miss Carpenter stated that they preferred to retain the Board Quorum at four voting members. Mr. Brown, Miss Carpenter, and Dr. Fracher also stated that the requirement for annual police ride-alongs should be made flexible, with alternative trainings available. Councilor Payne stated he was agreeable to a more flexible training option.

Miss Carpenter asked if some Board meetings would be closed. Mr. Mendez said that the authority of the Board to hold closed sessions and retain confidential information was unresolved. The current “work-around” in the ordinance was to separate fact-finding hearings (which would be open) from hearings related to disciplinary issues (which might be closed.) Ms. Hudson noted that the current statutory language would allow closed hearings “if state law permits”, which for the time being would be decided on a case-by-case basis by the City Attorney.

Dr. Fracher asked if the Board would be able to compel statements from police officers under the new ordinance. Ms. Hudson stated, in agreement with Mr. Aguilar, that the city can compel statements from officers on administrative matters, which would be available to the Board.

Member Watson expressed concern about the provision allowing complainants to specify that the Board investigate their complaints. He noted that the cost of investigation will need to be accounted for in the Board’s budget and might prove to be quite high.

Mr. Watson also addressed to issue of who would have standing to file a complaint. He suggested that the current approach of allowing any member of the public to file a complaint would promote openness, and the potential for abuse seemed minimal. Ms. Carpenter agreed. Mr. Aguilar noted that special procedures need to be developed to address complaints involving juveniles. Ms. Hudson confirmed that the Board cannot access juvenile criminal complaints, but we would have access to properly redacted materials related to an incident.

Vice Chair Mendez noted that, along with the Board-Police SOP, it would soon be possible to draft an RFP for complaint management software.

### **Mock Hearing and Information Sharing**

Mr. Mendez noted that meetings had begun with the CPD to discuss methods for information sharing under the new ordinance. Preparations for a mock hearing were discussed. Chair Brown suggested a “dry run” with a fictional fact pattern provided by the CPD or from some other source. Mr. Watson suggested that Mr. Aguilar identify candidates for Hearing Examiner. Mr. Watson moved that the Board tentatively schedule the mock hearing for 6:30 PM January 27<sup>th</sup>. The motion passed unanimously.

### **Public Comment Period #2**

No members of the public requested to speak.

The Board voted to adjourn at approximately 7:33

Next Meeting: January 13, 2021, at 6:30

## **December 9 Minutes Attachment 1**

### December 6 Council Discussion of Draft Ordinance

- Councilor Snook presented the draft ordinance to the Council
- Council draft specifies “hybrid” model; authority to receive complaints, investigate complaints and incidents, make disciplinary recommendations in cases of serious misconduct, monitor and review IA investigations, hold hearings, request subpoenas, make policy recommendations
- Allows complainants to specify whether they want the Board to investigate
- Board structure and membership, meetings, public engagement activities, training requirements

### Next Steps

- Legal review by the City Attorney and by the Board’s independent counsel
- Intent is to vote on a final version at the December 20 Council meeting
- Deadline for posting final ordinance is tomorrow (December 10)
- After the ordinance passes, we will need “procedures”
  - Standard Operating Procedures drafted by the City Manager relating to information sharing with CPD and complaint processing procedures
  - The Board’s Operating Procedures addressing hearings, Board initiated investigations, Code of Ethics, and implementation of other powers granted in the ordinance

## Final Issues to be Clarified

- Who has standing to file a complaint?
- Should the Board be required to investigate if the complainant asks?
- Should the Board be able to compel statements from police?
- What constitutes a quorum of the Board?
- Hearing examiners: required, optional, or not needed?
- ~~Will Board members be required to file financial disclosure forms?~~
- Will Board members be required to engage in annual police ride -  
alongs?