

CHARLOTTESVILLE POLICE CIVILIAN REVIEW BOARD MEETING

MINUTES

Date: January 13, 2022

Scheduled Time: 6:30 p.m.

Location: Virtual/Electronic Meeting

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

Board Members Not Attending:

Staff: Remy Trail (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 approve the agenda. The motion was seconded by Dr. Fracher. The agenda was adopted unanimously.

Adoption of Minutes-

Vice Chair Mendez clarified that the minutes posted were for the past few months. Mr. Watson moved to adopt the minutes. The motion was seconded by Dr. Fracher. The backlog of 2021 minutes (October-December) were unanimously adopted.

Hearing Examiner Introduction- Adrian Steel

E.D. Aguilar presented Mr. Steel to the Board as the hearing examiner role-player for the mock hearing. Mr. Steel provided an overview of his background to include his work in the Fairfax County Civilian Review Panel, FBI, and with an international law firm based out of DC.

Vice Chair Mendez provided more information about the process and expectations of the hearing examiner. Specifically, he stated that he envisioned for the hearing examiner to be a “moderator” in the process. Mr. Steel provided information about the Fairfax process and how the IAB provides the Chief a summary of the investigation. Mr. Steel suggested that there be a strong relationship with a liaison of the IA department.

Independent Counsel Cynthia Hudson talked about the importance of having some procedures for the process. Mr. Steel stated that he will be available to prepare for the mock hearing and will abide by the rules set forth by the Board.

Chair Brown asked whether there is a definition for “serious misconduct” in the procedures of Fairfax. Mr. Steel stated that there is one definition that was adopted from Virginia Beach.

Mr. Watson suggested to reach out to NACOLE to see how complaint examiners are used elsewhere.

Mr. Steel opined on the release of information as contemplated by FOIA. He indicated that police files are discretionary. Mr. Steel yielded further analysis and guidance to Ms. Hudson.

Election of Officers

Chair Brown motioned to nominate Mr. Mendez for Chair. After three calls for nominations, the nominations for Chair were closed. Dr. Fracher nominated Mr. Watson for Vice Chair. After two calls for nominations, the nominations for Vice Chair were closed.

The Board voted for Chair nominee Mr. Mendez in the following manner: (4 yes; 0 no; 1 abstained)

- -Brown: yes
- -Carpenter: abstained (after making remarks about the lack of accountability within the Board)
- -Fracher: yes
- -Mendez: yes
- -Watson: yes

The Board voted for Vice Chair nominee Mr. Watson in the following manner: (4 yes; 0 no; 1 abstained)

- -Brown: yes
- -Carpenter: abstained
- -Fracher: yes
- -Mendez: yes
- -Watson: yes

Public Comments (3 minutes per speaker)

Ms. Turner called in to address the remarks by Ms. Carpenter. She sought clarification as to why the issues revealed in the emails have not been addressed. She remarked that Chair Brown continues to disrespect the Executive Director. She expressed discontent about some of the remarks made in the emails and texts (i.e. “flying monkeys”). She expressed that this was not the original intent of the founding members. She expressed that the Board needs to be “dismantled.” Ms. Turner stated that outside of Ms. Carpenter, the other members have not shown desire for police accountability.

Mr. Brown responded to the comments by Ms. Turner. He explained that he did not make any derogatory remarks to towards any community members. Chair Brown stated that there is a false narrative about the relationship between him and the Executive Director and recently spoke about the Director’s accomplishment to local media.

Mr. Andrew Shelton called in to express that he does not believe the Board will have the community’s trust if Mr. Brown and Dr. Fracher remain on the Board. He stated that they should step down. He expressed that Ms. Gilmore has been absent a few times and that she needs to be provided whatever she needs to participate in the process.

Ms. Conn called in to stated that Mr. Brown was “gaslighting” the community and only addressing one aspect of the issues. She stated she would be in favor of Mr. Brown and Dr. Fracher stepping down from the Board. Additionally, she expressed that the Board is composed of “police apologists” and individuals who have a “soft spot” for law enforcement.

Mr. Brown asked if he could make a statement. Chair Mendez stated that responding “tit-for-tat” is not an effective way to hold a meeting. Mr. Brown expressed that he has never been in law enforcement.

Status of Complaints

E.D. Aguilar provided an update on complaints since the last meeting. Specifically, he stated the Board received: 1 closure letter and 1 initial complaint. The initial complaint is regarding a use of force matter involving an American Indian female. The matter will be investigated by the IA department. The matter that received the closure letter is ineligible for review because the complaint was sustained.

Standard Operating Procedures Defining Board-CPD Relationship

Chair Mendez asked about the status of the drafting of the documents. E.D. Aguilar stated City Attorney would be taking the lead and will be working with the E.D. and the Chief of Police.

Board's Internal Operating Procedures

Chair Mendez stated that the process has been in "abeyance" over the holiday. Chair Mendez stated a group will be selected to work on the document and solicit feedback from the public.

Ms. Carpenter stated that soliciting feedback from the public may be difficult because members of the public do not want to be associated with the process. Chair Mendez clarified that he has been in touch with an attorney from the Legal Aid Justice Center.

Dr. Fracher sought clarification regarding the FOIA process and who is the person designated to review documents before they are released per a FOIA request. Ms. Hudson provided some comments and stated that she could be the "reviewer" for the Board and provide guidance when requests are received.

Mr. Brown opined that this needs to be addressed because it is a risk management issue for the City. Chair Mendez stated that it may be good to have a training from legal counsel regarding FOIA. Dr. Fracher stated that the recipient of the documents released them without consideration for personal information. Ms. Carpenter stated that it is a "lesson learned" from the dump of documents. Chair Mendez agreed that there needs to be a discussion on internal relationships.

Vice Chair Watson asked about the possibility of community engagement opportunities. He stated he knows a lot of people in the community having lived here for 30 years. Vice Chair Watson asked E.D. Aguilar regarding recent outreach efforts. E.D. Aguilar provided a summary of recent outreach events to include the Grand Illumination and the presentation to the Youth Council. Mr. Brown stated it was important to have more diversity and representation in the community being reached out to.

Vice Chair Watson initiated a discussion regarding the vacancies on the Board. Mr. Brown requested that Councilor Payne, who was in the audience, provide some input and guidance on the process and status. Dr. Fracher asked for clarification if other Boards and Commissions were having issues with vacancies. Councilor Payne provided some reasons why there may be vacancies elsewhere but also in the PCRB.

Rehearsal Hearing- Legal Refresher

Ms. Hudson provided a high-level review of what the Board duties are in reviews. She spoke about the charge per the ordinance (i.e. reviewal of impartiality, thoroughness, completeness.). Additionally, she expressed the importance about the confidentiality. She spoke about the role of independent counsel in the hearings- to be there in advisory role. To provide information regarding the legality of matters. Additionally, Ms. Hudson provided an overview of the standards of review or proof (i.e. beyond a reasonable doubt; clear and convincing; preponderance of the evidence, etc).

Mr. Brown asked whether there was an objective or subjective standard in the process. Ms. Hudson stated that Board members should be applying an objective lens. Additionally, Mr. Brown asked about “instructions” that may be given to the Board members. Ms. Hudson stated that there would be that information provided to the Board so that they may assess the case.

Chair Mendez provided more details regarding the mock hearing. Chair Mendez asked E.D. Aguilar about the logistics of the case file review.

Councilor Payne made some final remarks about the need for the Board to demonstrate that they can execute their duties under the ordinance.

Public Comments (3 minutes per speaker)

Ms. Conn stated that the information that was released not private and urged members to take responsibilities for what was said.

Mr. Andrew Shelton acknowledged that Board members have devoted considerable time to serving but discussed the potential sustainability issues of the Board beyond the mock hearing and the pending hearing.

Mr. Brown stated that there is a segment of the community that is not being represented and he will continue advocate for them. Ms. Carpenter asked where the community members are that Mr. Brown speaks of. She asked that Mr. Brown invite the other voices to the meeting so that there could be a discussion that encompasses all voices.

Dr. Fracher made clarifications on the usage of “flying monkeys” and stated that it was not used in a racist manner but rather a psychological manner. Mr. Brown echoed the sentiments. Councilor Payne recommended that the Board work on internal relationships and have a retreat if needed.

Adjournment

Dr. Fracher motioned for adjournment which was seconded by Mr. Watson.

The meeting was adjourned at 8:33 PM unanimously.

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