

City of Fort Lauderdale

*City Hall
100 North Andrews Avenue
Fort Lauderdale, FL 33301
www.fortlauderdale.gov*



Meeting Minutes - APPROVED

Tuesday, November 1, 2016

12:00 PM

Joint Workshop with Citizens' Police Review Board

City Commission Conference Room

CITY COMMISSION WORKSHOP

FORT LAUDERDALE CITY COMMISSION

***JOHN P. "JACK" SEILER Mayor - Commissioner
DEAN J. TRANTALIS Vice Mayor - Commissioner - District II
BRUCE G. ROBERTS - Commissioner - District I
ROBERT L. McKINZIE - Commissioner - District III
ROMNEY ROGERS - Commissioner - District IV***

***LEE R. FELDMAN, City Manager
JOHN HERBST, City Auditor
JEFFREY A. MODARELLI, City Clerk
CYNTHIA A. EVERETT, City Attorney***

ROLL CALL

Present - 5 : Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers, and Mayor Seiler

Also Present: City Manager Lee R. Feldman, City Auditor John Herbst, City Clerk Jeffrey A. Modarelli, City Attorney Cynthia A. Everett

Also Present: Citizens' Police Review Board Chair Kevin Borwick, Vice Chair Christina M. Currie, Esquire, Collis Atkinson, Marc Dickerman, Lynette Falzone, Skeet Jernigan, Kenneth Staab, Cecil Stone and Roosevelt Walters

QUORUM ESTABLISHED**Call to Order**

Mayor Seiler called the Workshop to order at 12:10 p.m.

OLD/NEW BUSINESS[16-1373](#)

Discussion - Board Business

Mayor Seiler thanked the Citizen Police Review Board (CPRB) for the opportunity to have this meeting and noted the importance of the CPRB, especially in light of recent events occurring around the country.

Chair Kevin Borwick thanked the Commission for hosting this meeting. Chair Borwick stated the CPRB is working towards improving the City's ordinance as it relates to allowing the CPRB to continue serving the community by reviewing the City Police Department's Internal Affairs complaints. Chair Borwick acknowledged Vice Chair Christina Currie's role in assisting in bringing the CPRB's ideas and concepts to the table with proposed revised drafts of the City's ordinance.

At the request of Mayor Seiler, those in attendance introduced themselves.

Chair Borwick stated the goal of today's workshop is to share the information that was prepared and provided by Vice Chair Currie with the Commission and to come together for consensus on how to move forward and make the City's Police Department the best in the nation.

Christine Currie, Esq., Vice Chair of CPRB, outlined the two documents she prepared and provided to the meeting attendees. Vice Chair Currie explained these documents included suggested modifications to the current City ordinance that would allow the CPRB to contribute and improve the organization. The document with numbered items 1-3 refers to what the ordinance currently states, the suggested revisions, its purpose, and its benefit. Item number 4 is a suggestion to be added and considered at the end of the ordinance.

The additional document prepared by Vice Chair Currie is a redlined copy of the current ordinance Section 2-248 and Section 2-250 with the CPRB's suggested changes, deletions, and additions incorporated.

A copy of each of these documents prepared by Vice Chair Christina Currie, Esq., is attached to these minutes.

The 2006 Harry Stewart Memo was discussed with a focus on the past confusion with regard to the CPRB.

Assistant City Attorney Weissman addressed the workshop attendees on the Harry Stewart Memo dated April 21, 2006 (Memo). Mr. Weissman gave an overview of the memos interpretation of the City's current ordinance. Comments and discussions regarding this Memo ensued.

Vice Chair Currie explained the reasoning for the suggested modification to the ordinance as it relates to FLPD POLICY 117.3C(1) (A) "Category 1-formal investigation" (Category One) and the Memo. Mayor Seiler stated his concern that the proposed wording was too open ended in Vice Chair Currie's draft. Further discussions continued on the proposed wording. Roosevelt Walters stated the reason for this requested change was to prevent Internal Affairs from having the option to pick and choose what the CPRB receives.

Chair Borwick stated there was great deliberation over this item and their goal was to protect the CPRB should the statute on the Category One change. Mayor Seiler stated that the statute on Category One had not changed in ten years. He also stated should it change, the CPRB would be involved in that change. Discussions ensued on the definition of a complaint and formal investigations. Commissioner Rogers suggested this should be defined in the City's ordinance.

Skeet Jernigan acknowledged the lengthy discussion by the CPRB on this topic. He stated the original ordinance was better than the

proposed amended ordinance if it were not for the specter of the Memo. Mr. Jernigan noted if the Commission confirmed that the Memo has no force or effect, this portion of the ordinance would not require a modification. Mayor Seiler stated this is the Memo that the City has functioned under for ten years, and the City could not now say it does not have any force or effect.

Assistant City Attorney Brad Weissman noted how this issue arose stating that under the Police Department's policy, if the Chief of Police were the complainant, generally, those complaints would not go to the CPRB. Discussions and comments continued on the wording of the current ordinance. Police Chief Adderley noted that under the legal advice of Harry Stewart, complaints that went to the CPRB were limited to complaints that came from private citizens, not internally, and was why the policy changed. Questions, comments, and discussions continued. Vice Mayor Trantalis commented on his experience when he was a member of the CPRB.

Mayor Seiler asked for agreement that any Category One complaint, whether it originates internally or externally, would come before the CPRB. No one in attendance disagreed, and discussions continued how to draft the appropriate language. Further comments on how this situation evolved on internal investigations that do not involve citizens.

Mr. Jernigan and Mr. Walters raised the issue of the need for a reasonable timeframe for the CPRB's receipt of information from Internal Affairs. City Manager Feldman commented on the aspects of the Police Officer's Bill of Rights, its procedures and the inability to reopen the investigation. Chair Borwick responded on this point explaining the position of the CPRB when insufficient information had been provided. Discussions continued on proposed modifications, possible solutions and current constraints, and included input from several attendees. Chief Adderley recommended the CPRB initiate a formal complaint in those situations that warrant further investigation. Vice Chair Currie stated the importance of maintaining a good relationship with the Police Department's liaison. Chief Adderley responded to Vice Chair Currie's concern and recommended an independent, knowledgeable person who could give the CPRB legal advice and guidance on the Police Department's policy and procedures, and the Police Officer's Bill of Rights. Further comments and discussions followed on the recommendation of having an in-depth, knowledgeable person on the CPRB.

Mayor Seiler requested expanding the timeframe for the CPRB and adding a sixth option to Sec. 2-250 - Decision of the Board c. (vi) and discussions on this recommendation followed. Chief Adderley

commented on the timelines and requirements under the Police Officer's Bill of Rights. City Attorney Everett and Assistant City Attorney Weissman also gave their input on this topic.

Mayor Seiler recommended modifying the 20-day language in the ordinance to 35 days and acknowledged there was a consensus among the attendees for this change.

Mayor Seiler also noted that there was a consensus to add a sixth option to item 3. Sec. 2-250 - Decision of the Board under item C. as noted below:

(vi) No decision for lack of information.

Vice Chair Currie discussed the importance of having specificity when the CPRB makes its decisions and recommendations as it relates to items in the future. Discussions and comments continued on the CPRB being specific about its decisions. It was noted that members of the CPRB disputed their ability to give recommendations. Mr. Walters commented on this topic. Mr. Jernigan noted his concern about the concept of the CPRB filing a complaint as it raises issues of conflicts of interest and Sunshine Law issues.

Mayor Seiler noted the statute allows, and the City Commission welcomes, the CPRB being specific when making its decisions. City Manager Feldman noted the CPRB's input is important in all aspects especially as it relates to issues such as police body cameras.

City Attorney Everett commented that the City's ordinance is very limited as to what it states regarding the specificity of the input of the CPRB's recommendations and information. City Attorney Everett also noted that even though the City may appreciate and welcome the CPRB's information and input, she recommended modifying the language of the City's ordinance. Mayor Seiler asked for and received a consensus from the attendees on the concept of the inclusion of language in the ordinance stating the CPRB may include recommendations regarding the CPRB's decisions. Chair Borwick stated when the CPRB selects one of the options in the ordinance as its response, they could also submit a memo explaining their decision and offer recommendations.

Mayor Seiler asked City Manager Feldman to explain to the CPRB the conversations that members of the City Commission have had concerning what attributes the City is seeking in its police officers. City Manager Feldman explained his work with Dr. Morris on this task. City Manager Feldman informed the CPRB they should expect to be

contacted by Dr. Morris to assist in developing an assessment of the characteristics needed for the City's police officers.

Vice Chair Currie clarified that recommendations regarding the CPRB's decisions only relate to the six options noted in the ordinance and would not include recommendations regarding discipline.

Vice Chair Currie noted the suggested addition of language to Section 2-250 Decision of the Board c (ii). Mayor Seiler recommended adding that language stating that the City Commission would like the CPBR's feedback on improving the City's Police Department. Mayor Seiler gave examples of the City Commission's desire for the CPBR's feedback on things such as the Dr. Morris report and policy for police body cameras.

Mayor Seiler commented on the discipline aspects of CPBR's recommendations. Mr. Jernigan noted that he felt the CPBR did not intend for its recommendation to be specific regarding discipline, citing a case several meetings ago. Discussions and comments continued on the CPBR being very general in its recommendations on discipline to avoid micromanaging discipline. City Manager Feldman stated that he would like to remain independent on this issue. It was clarified that the CPBR's recommendations would be advisory in nature.

Commissioner Rogers noted the need for work on clarifying this ordinance's additional language. Mayor Seiler noted that Section 2-250 Decision of the Board, item c. ii. would include language about police body cameras and other policies.

Mayor Seiler noted that item 4, Suggestion to Add to End of the Ordinance would need to be put forward at the First or Second Reading.

Mr. Jernigan raised an issue stating one of his proposed items was not placed on the agenda. Chair Borwick noted that this item was voted on by the CPRB, and the CPRB rejected it in a 7-1 vote. Mr. Jernigan asked Mayor Seiler how he could get this item on the agenda. Mayor Seiler noted that when a board rejects an item by such a large majority, no matter what board it may be, it defeats the purpose of having ideas vetted by the boards. He further stated that when a request such as this is made, the City Commission will not ignore the will of the board. It was noted Mr. Jernigan could be heard on his item at a public hearing.

ADJOURNMENT

The Workshop adjourned at 1:30 p.m.

Nov. 1, 2016

City Commission Joint Workshop with CPRB

The following is an outline of suggestions the CPRB would like to discuss with the City Commission.

1. Suggestion RE: Section 2-248 (Established, intent, composition, term) & Section 2-249 (Duties)

- a. **Now:** Current ordinance and 2006 Harry Steward Memo set forth that the CPRB is to review all complaints investigated by the IAD of the FLPD.
- b. **Suggested:** The board is suggesting a change to require CPRB to review all formal investigations of the internal affairs department, originating from any source, including but not limited to: unnecessary or excessive response to resistance, false arrest, violations of a specific criminal statute, and serious or significant complaints of misconduct, and any allegation of racial, sexual or workplace harassment.
 - i. This list is taken from FLPD policy 117.3 C(1)(a) "Category 1-formal investigation"
 - ii. FLPD Policy 117.3 D Duties of Internal Affairs unit will need to be updated.
- c. **Purpose:** If the above were investigated but did not originate from a complaint adding this language would trigger the submission to CPRB.
- d. **Benefit:**
 - i. Addition would be in furtherance of intent of the board to assist in maintaining confidence of FLPD.
 - ii. Addition is consistent with Final Report of the President's Task Force on 21st Century Policing

2. SUGGESTION RE: 2-250 (5) Decision of the Board, Defer Case for more information

- a. **Now:** Defer when CPRB determines insufficient facts to make a decision.
- b. **Suggested:** Recommendation, stating with specificity the grounds, for additional information or investigation in accordance with Law Enforcement Bill of Rights, Ch. 112, Florida Statutes.
- c. **Purpose:** Rectify issue that arose in early 2015 and hasn't been fully addressed by the City.
- d. **Benefit:**
 - i. Aid in addressing concerns that this board is "rubber stamping" while acknowledging that Ch. 112 cannot be ignored.
 - ii. Addition would be in furtherance of intent of the board to assist in maintaining confidence of FLPD.
 - iii. Addition is consistent with Final Report of the President's Task Force on 21st Century Policing
 - iv. Recommendations would be advisory only and based on materials provided.

3. SUGGESTION RE: 2-250 Decision of the Board

- a. **Suggested:** The board's decision may include a recommendation for modification of the discipline recommended by the police chief. However, such recommendation shall not be made without consideration of past disciplinary actions taken in connection with misconduct of a similar nature. The board's recommendation may include matters relating to non-operational aspects of the police department's activities, including but not limited to training, disciplinary and administrative policies and procedures, when such matters come to the board's attention in connection with the board's review of a particular Internal Affairs Investigation.

b. **Purpose:** Add back language of original drafting of C-94-47

c. **Benefit:**

- i. From 1994-1998 the Board was able to said recommendations.
 1. Minutes relating to 1998 change in ordinance don't make it clear how recommendation language was removed.
- ii. Chief Adderley has previously approached the Board about reviewing and contributing to Use of Force policy. Some board members are concerned about contributing where ordinance does not explicitly allow.
- iii. Recommendations would be advisory only and based on materials provided.
- iv. Addition would be in furtherance of intent of the board to assist in maintaining confidence of FLPD.
- v. Addition is consistent with Final Report of the President's Task Force on 21st Century Policing

4. SUGGESTION ADD TO END OF ORDINANCE

- a. **Suggestion:** All actions of the board shall be in accordance with applicable law to include, but not be limited to, the Florida Public Records Law (Florida Statutes Ch. 110), Florida Government-in the Sunshine Law (Florida Statutes Ch. 286), & the Law Enforcement Officers Bill of Rights (Florida Statutes Ch. 112).
- b. **Purpose:** Adding this helps to have everything related to this Board and their duties within the governing ordinance.
- c. **Benefit:**
 - i. Further clarification
 - ii. Adhere to anyways

11/1/2016
Joint Workshop
Provided at
workshop

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The following is mark-up of the current ordinance incorporating the CPRB suggestions.
Strike thru is language to be removed. Underlined is language added. Comments are for clarification/reference.

CITY OF FORT LAUDERDALE

DIVISION 4. - CITIZENS' POLICE REVIEW BOARD

Sec. 2-248. - Established, intent, composition, term.

There is hereby established a citizens' police review board. This board is being created to assist in maintaining the confidence of Fort Lauderdale citizens that ~~complaints~~ all formal investigations by internal affairs of alleged police officer misconduct are being thoroughly and objectively investigated and resolved. This board shall be composed of nine (9) members and will be appointed as follows: three (3) will be police officers appointed by the chief of police and six (6) will be citizens that reside in the city, one (1) to be appointed by each city commissioner and one (1) to be appointed by the city commission as a body.

Sec. 2-249. - Duties.

The citizens' police review board shall review all ~~complaints~~ formal investigations of the internal affairs division of the police department originating from any source, including but not limited to: unnecessary or excessive response to resistance, false arrest, violations of a specific criminal statute, and serious or significant complaints of misconduct, and any allegation of racial, sexual, or workplace harassment. The citizens' police review board shall conduct its review at the conclusion of an internal affairs formal investigation ~~of a complaint~~ after the chief of police has made his recommendation regarding any ~~complaint~~ formal investigation to the city manager, and after the police officer about whom the ~~complaint~~ formal investigation was made has been informed of the recommendation of the chief of police. The citizens' police review board shall receive the complete internal affairs file, unless otherwise provided to be confidential by law, and in this regard shall receive the cooperation of the police department in providing information to the board. The citizens' police review board shall make its recommendation for the city manager's consideration within twenty (20) working days of the date the police officer is notified by the chief of police of his recommendation. However, failure of the board to make its recommendation to the city manager shall not prohibit the city manager from making his decision regarding the ~~complaint~~ formal investigation against the police officer.

Comment [cc1]: Category 1 language from FLPD policy 117.3 C

Sec. 2-250. - Decision of the board.

The decision of the citizens' police review board shall be advisory only to the city manager. Upon review of the formal investigation, the citizens' police review board shall render one (1) of the following decisions by majority vote:

- (1) Sustained. The formal investigation produced a preponderance of evidence to substantiate the allegation of an act which was determined to be misconduct.

- (2) Not sustained. The formal investigation failed to produce a preponderance of evidence to either prove or disprove the allegation.
- (3) Exonerate. The allegation did in fact occur, but the actions of the employee were legal, justified, proper, and in conformance with city policy and procedure.
- (4) Unfounded. The allegation concerned an act by an employee which did not occur.
- (5) ~~Defer case for more information. This will be the decision when the citizens' police review board determines insufficient factual evidence to render a decision. Defer. A recommendation, stating with specificity the grounds, for additional information or additional investigation in accordance with Law Enforcement Bill of Rights, Chapter 112, Florida Statutes.~~

The board's decision may include a recommendation for modification of the discipline recommended by the police chief. However, such recommendation shall not be made without consideration by the board of past disciplinary actions taken in connection with misconduct of a similar nature.

The board's recommendations may include matters relating to the police department's activities, including but not limited to training, disciplinary and administrative policies, and procedures when such matters come to the board's attention.

Comment [cc2]: Recommendation language based on original drafting of C-94-47.

Documentation of the board's recommendation shall be provided to the city manager and the city commission.

All actions of the board shall be in accordance with applicable law to include, but not be limited to, the Florida Public Records Law (Florida Statutes Ch. 119), Florida Government-in-the-Sunshine Law (Florida Statutes Ch. 286), and the Law Enforcement Officers Bill of Rights (Florida Statutes Ch. 112).