

ATLANTA CITIZEN REVIEW BOARD

APPROVED OFFICIAL MINUTES

MEETING DATE: February 12, 2009, 6:30 PM

LOCATION: 55 TRINITY AVENUE, SW, COMMITTEE ROOM #2, ATLANTA, GA 30303

BOARD MEMBERS IN ATTENDANCE:

RODERICK EDMOND (RE); JOY MORRISSEY (JM); J.L. BOOKER (JB); SHARESE SHIELDS (SS); SETH D. KIRSCHENBAUM (SK); KATHY CRAWFORD (KC); OWEN MONTAGUE (OM); LASHAWN HOFFMAN (LH); JOHN M. MICHAEL (JMM)

BOARD MEMBERS ABSENT: CHARIS JOHNSON (CJ)

CALLED TO ORDER: 6:42 PM by CHAIRPERSON SHARESE SHIELDS

STAFF ATTENDEES: Cristina Beamud (CB), Executive Director, William Castings (WC), Atlanta Law Department, and Myola Smith (MS), Administrative Analyst

ADDITIONAL ATTENDEES: Greg Pridgeon (GP), Office of the Mayor

APPROVAL OF MINUTES:

- 1) December Minutes: LH moved to approve minutes; JM seconded; approved unanimously. *Note: At January's meeting, the board was unable to vote on the minutes due to lack of quorum.*
- 2) January Minutes: LH noted that January's meeting should not be noted as 'Minutes,' instead the record should be corrected to reflect "Official Summation", due to a lack of quorum. Correction was accepted and no vote required.

PRESENTATION:

- 1) Greg Pridgeon, Chief of Staff for Mayor Shirley Franklin, spoke regarding the administration's proposed changes to the Ordinance. He stated that the proposed Ordinance was an attempt to find middle ground between the administration, APD, Corrections, Law Dept. and the Board. Due to a disagreement about how information would flow between APD, Corrections and this Board, the parties are at an impasse.' The Administration is hopeful the revisions would be received favorably. They realize the Board was not in favor of the revisions. He said it is clear that the Council and the public are opposed to the changes. The concern was the sensitivity and confidentiality of information and how that information would be utilized...Would it impact the rights of the officers? Would it affect the case outcome? How will it be presented to the public. He asked the Board to allow him to put in writing the administration's proposed compromise. A few points that the Board can expect:
 - a. APD/Corrections will release all documents weekly, by noon each Wednesday in the format desired by the Board.
 - b. Confidentiality--non-disclosure forms utilized by APD, will be provided to the Board to consider signing when accepting sensitive and confidential documents.
 - c. APD/Corrections will move with deliberate speed to resolve these investigations within 90 days; but, if there is a reason why they cannot conclude the investigation within 90 days, the reason will be put in writing and presented to the Board to decide if it is rational or not. Cases involving the FBI or other agencies may require more time but these are few and far between.
 - d. We would like to clearly define the meaning of "completed case" in an investigation. When the appropriate Department (Corrections – APD) concludes its work and makes a recommendation to the Chief, but before the Chief makes

- a decision, the Board will be allowed to include its recommendations with the department's recommendations for the Chief's consideration. Therefore, the Board is not put into a position to react after the fact to the Chief's decision.
- e. An alternative to this process is: 1) have the investigation and recommendations sent to you or 2) have just the results of the investigation without the recommendations. Once OPS finishes its work, they hear our findings of the facts, but don't say what they recommend the discipline to be for the officer; 3) or they can proceed with their fact findings and make a recommendation, and the Board gets a chance to see both of these (*facts & recommendation*) prior to the Chief making a decision.
 - f. A request would be made to the Board to delay a formal decision until the Dept. sets forth its investigative information. If the Board feels that the investigation is delayed, you would present your concerns to the department and let them know that you are interested in receiving information more expeditiously than what they have been doing.
- 2) **GP** stated that the Mayor firmly believes in a strong 3rd party investigation and supports the Board. The administration is not looking for controversy but a way for the Board to do its work and at the same time, protect the rights and the integrity of the case. The Mayor and her staff support this effort..
 - 3) **SS** asked **GP** to put the recommendations in written form for the Board's review so that the members can submit questions. **SS** noted that the information being presented would require lengthy discussion and that the Board would want to talk with him further about the proposal. **SS** also asked Mr. Pridgeon if he could come to their next meeting.
 - 4) **GP** noted that the Public Safety Committee is looking to receive some resolution before the next committee meeting. If a resolution is possible before the next Public Safety meeting, that would be great so that Council can make a decision about where they want to go with the Ordinance. But if not, if we asked them jointly, to hold the legislation again so we can continue to work on it, most Council members will probably be ok with '*holding*' it in Committee.

NEW BUSINESS:

- 1) STATUS OF PROPOSED AMENDMENTS TO ORDINANCE
 - a. **SS** stated that the next Public Safety Meeting is February 24 at 2:00 P.M. In the context of Mr. Pridgeon's presentation and the last Public Safety meeting, , there are issues about the sensitivity of cases and protecting the confidentiality of information. The question was raised whether we would have a duty to disclose the information to the public, if an open records request came before this Board. My response and it appears Council agree, is that we are not the public. We are a board of the City of Atlanta and APD cannot use the Open Records law to justify not giving us certain documents. If documents are confidential and the police have the information, then they are also confidential when we have it; therefore, we can't divulged this information to the public.
 - b. **SS** stated that the discussion at the Public Safety Meeting concerning the need for independent counsel to readily assist them was similar to a discussion that the Board had in the past. We may want to continue the discussion regarding our own independent counsel.
 - c. **JMM** reminded the Board that the initial Ordinance was unanimously approved by the Council. He voiced concerned that there was no discussion about the proposed ordinance until a couple of weeks ago. He asked why the Law Dept. would want to limit the power of the investigation unless it was the wishes of APD and the administration.

- d. **SS** said that Deputy City Attorney, Jerry DeLoach indicated that the Law Dept. had concerns all along about the Ordinance in its original form and that the proposed Ordinance is an opportunity to revisit the issue. There was an overwhelming show of the support from the community. It is unlikely that Council members will support the changes since they were not consulted about any of the proposed changes.
 - e. As a matter of record, **RE** stated that the Board does need independent counsel. He further stated that when APD and the Law Dept collaborate, it is hard to see how our assigned counsel, being an employee under the Mayor's administration, cannot be influenced.
 - f. **SS** stated that Rules & Procedures can look further into this matter, if the Board wants to explore seeking independent counsel.
 - g. **SK** said he spoke with Kilpatrick & Stockton about pro bono work for the Board and they seemed very interested but later withdrew. He stated that if the Board wants to talk about getting independent counsel, the lawyers from the Law Dept. will say that dual reporting is a common practice and there is no reason for the Board to seek independent counsel. He supports having independent counsel.
 - h. **SS** stated that the issue of independent counsel should go back to Rules and Procedures to *flesh out* and present to the Board.
- 2) SCHEDULING TRAINING
- a. **SS** stated that in order to comply with the Ordinance, training needs to be regular and ongoing to satisfy the law. Training should also cover a variety of related topics, *i.e.*, constitutional issues, criminal procedures, Robert Rules, How to conduct Public Hearings, Ethics, *etc.* **SS** also stated that more and more time is needed for board business and since training takes up a considerable amount of time, she asked if the Board would be amendable to a weekend training day where guest speakers can be invited to come by and present to the Board.
 - b. **SK** asked if training was required every year.
 - c. **SS** stated that in the By-Laws, training and orientation is required for new members.
 - d. **JM** stated that it makes sense for new members to be trained; however, some members currently serving have not been trained. She further stated that training adds to who we are as a board and enhances the board's credibility.
 - e. **JM** moved to conduct training on weekends. **OM** second. Vote delayed by Discussion.
 - f. **JMM** recommended that the Board reach out to the ACLU to conduct board training.
 - g. **JM** stated that the training should be broader than just the ACLU.
 - h. **CB** stated she has contacted Georgia State University for trainers (professors) to cover topics such as the 'use of force' and 4th Amendment issues. She also stated that a meeting has been scheduled with one of the legal directors of the ACLU. If the board desires, the ACLU can be invited to speak to the Board. ACLU is very protective of their resources and training for us could be a lot of work for them. On the other hand working with a university, the professors already have lesson plans. **SS** stated that working with Georgia State may be an opportunity to forge a relationship with law students that may be of value to the Board in the future.
 - i. **KJ** stated that training makes for a long night and suggested conducting training on a separate night other than at regular board meetings.
 - j. **OM** stated that the Board clearly needs to identify and develop some parameters for training and match those parameters with the right resources.

- k. **JMM** stated that he was asking for ACLU to be considered because they are resourceful and knowledgeable and a state wide group.
- l. **SS** entertained an amended motion.
- m. **SK** moved with a friendly amendment from **JMM** for the Director, in consultation with the Chair, research and pull together a training proposal with various groups, including the ACLU, to be consulted to see if they would be interested in participating. **OM-Second**. Approved unanimously.

OLD BUSINESS:

1) RECOMMENDATIONS of the SCREENING PANEL

- a. **SS** asked members to review Jan 6 memo from the Executive Director. She announced that Rules & Procedures Committee met a couple of weeks ago. Procedures were drafted but the Committee would first like to test them against the complaint process. One concern discussed was the amount of time that elapses from the time a complaint comes in until the Board votes to investigate the actual complaint. It delays the investigation. **CB** would still make the recommendations to the Screening Panels. The Panel decides whether to accept this recommendation and a report would then be made to the full board to accept those recommendations. This is a subtle change intended to not delay the **ED** from waiting until this Board votes before she moves forward to investigate the complaint.
- b. **RE** stated the only change from the old process is instead of having an inherent 30 day window, the Board would authorize the panels to make a decision. The investigation would not be delayed and still be in compliance with the Ordinance because the Board will check off on all panel decisions.
- c. **SS** stated this means that the Board still makes the ultimate the decision.
- d. **LH** questioned why the recommendation was not included in the Rules & Procedure Report.
- e. **SS** stated that the information regarding the recommendation was brought up tonight because of one of the complaints in Screening Panel II's report that needs to be discussed. It is not just a matter of accepting it because the Board needs to determine how to proceed.
- f. **LH** indicated that he is 'OK' with making the change, but wants to make sure the Board fully understands and that the process is in writing.
- g. **SS** said that the only thing that needs to be discussed tonight is the recommendation of Screening Panel II --whether it should be investigated or not--which is a little different than what the committee is proposing to do.
- h. **SK** stated that he felt that the **ED** should be able to do some preliminary investigation so that she is not put in a position where she makes a recommendation based only on a complaint.
- i. **LH** stated that he didn't have a problem but if this is the recommendation it should come before the Board in writing from the Rules and Procedures Committee.
- j. **SS** stated that there is no proposal at this time and to let the Board know that they are having this discussion and nothing has been decided yet.
- k. **LH** indicated at 7:45 p.m. that he had to leave but wanted to ask the Board to address a couple of items regarding the ED's report: 1) He stated that he read the report and thought it was excellent, but he would request that the budget be added as a separate agenda item. He stated that it is the Board's fiduciary responsibility to look at the budget. The Board gives the **ED** the authority to spend, but the Board needs to be aware of our own spending especially since the City is in a budget crisis. 2) The Board needs to vote on the new hire for the

- investigator position but first we need to go into Executive Session and hire the person that the **ED** wants to hire.,
- l. Regarding Case #08-15, **SS** indicated that members of the Panel had not been able to agree on a recommendation.
 - m. **SK** stated there was a split in the panel. Two members believed that police had followed procedures and no investigation was needed. He disagreed because the SOP may have been violated and a chase had ensued and recommends that the Board further investigate.
 - n. **JM** stated she and **CJ** decided an investigation was not necessary because the car was stolen and he pursued the car for the proper reasons.
 - o. **SK** stated, stolen or not, does this give the officer reason to chase? If he did engage in a chase, it may be an SOP violation. According to the SOP, officers on patrol are not allowed to engage in high speed to pursue a fleeing car.
 - p. **SS** asked if we had enough information to move forward.
 - q. **SK** stated that the only question is, "was a police officer involved and was there serious bodily harm or death?" Based on the report, this appears to be a violation of the SOP and someone died. As an oversight board, it is our job to investigate situations like this, report and make recommendation to the police department.
 - r. **JM** stated that the question in her mind is, "was the officer pursuing the car for the right reasons?" The officer was given a description of a car involved in a robbery and he was not looking for a stolen car. She stated that the statement by the officer indicated that he had good reason to follow this car.
 - s. **KJ** stated that if a person is aware that they are being pursued by the police, they are obligated to stop. She asked, "At what point and time does the driver assume responsibility?"
 - t. **SS** stated that the question before the Board is, do we have enough facts to move forward with an investigation? Was there a policeman involved and was there serious bodily harm or death as a result of the police action? Looking at the face value or initial complaint, can we move forward? This is the only question that the Board has to answer and all the other questions can be answered in the investigation.
 - u. **RE** stated that if the final question is whether or not excessive force was used, more information is necessary. We need to investigate. He also stated that more education is needed about excessive force in regards to a chase.
 - v. **SS** stated that as a point of clarity, excessive force is just one area, there is also bodily injury and death. Even if this is not excessive force, the fact that someone died, means we have jurisdiction to investigate. She stated that we need to ensure that we don't get 'hung-up' in the initial phase of the complaint process. Look at the Ordinance to see the types of complaints we have jurisdiction to review. The question is, "do we have jurisdiction to investigate this case?" This is the first question that the Board will be asked to answer with every case that comes before us. After the Board makes this determination and if the answer is yes, the **E.D.** can then start the investigation.
 - w. **RE** stated that this case falls under our jurisdiction. Although, there may have been excessive force, the kids were in the wrong, but that is not the standard. As a matter of record, he stated that clearly in this case, the Board needs to investigate.
 - x. **SS** entertained a motion regarding case 08-15.
 - y. **JLB** moved to investigate, **RE** seconded, Motion approved with **JM** opposed.
 - z. **KJ** stated that regarding Case #08-13, she did not understand the issue regarding the license plate and if a valid tag was required while waiting on a personalized plate.

- aa. **SK** indicated the issue was not the plate but because she didn't have a plate on her car she was stopped by the police and taken out of her car at gun point.
- bb. **RE** stated that the issue wasn't the plate; however, he didn't recall seeing any information indicating that the person was waiting on a personalized plate. He further stated that the Committee just wanted the information to be correct and clarified since some information was shared with the **ED** verbally and not included in the report.
- cc. **CB** stated that some information was shared verbally; however, the full statement was recorded and will be investigated.
- dd. **CB** reported that there were no disagreements with the other screening panels.
- ee. **SS** entertained a motion to accept the Screening Panel's report.
- ff. **SK** moved that the Board accept the Screening Panel's report for January 6, 2009. **JMM**-seconded; vote unanimous.

EXECUTIVE DIRECTOR REPORT

1) COMMUNITY OUTREACH

Community Outreach is going exceptionally well. Appreciation was expressed to those board members that were able to attend various meetings, i.e., NPU's and other organizations. **CB** thanked **JLB** for attending a Public Safety Meeting and a meeting at Cascade Church. She also thanked **JM** for attending a number of the NPUs meetings with her and expressed appreciation for her support. The results of the outreach effort were evident by the show of support and diversity of the community that attended the last Public Safety Meeting.

2) INVESTIGATOR POSITION

CB stated that she is hopeful that the Board will approve the hiring of Sheena Robertson as investigator.

3) IA PRO is going well.

4) BUDGET

- a. Every member received a copy of the most recent budget report. **CB** stated that the negative \$3,000 figure that **LH** referred to earlier in the meeting, will be handled by the Budget Analyst. **SK** stated that he thought what **LH** had in mind, is to show the Budget Report as a separate item.
- b. **CB** stated that she thought the Board had agreed to quarterly financial reports. The reason is the Finance Department prints the reports quarterly and anything other than that could put a strain on their small staff.
- c. **SS** stated that **LH** was referring to making the Budget Report as a separate item on agenda.
- d. **RE** stated that the quarterly report produced by the Finance Dept. was fine but asked the **ED** to keep the Board informed of any unusual expenditure outside of the norm.

5) INVESTIGATION

- a. **JMM** asked the **ED** the status of the investigation regarding the woman being held 2 hours at the Airport by the Police.
- b. **CB** stated that not much has been done because she is waiting for information from Major Hagin. She also stated that she has not been able to move ahead as quickly as she had hoped for two reasons: 1) The investigator is not on board and 2) The issues with the Police have been consuming in terms of trying to get an investigatory process in order that is efficient. **JMM** stated that the airport case is landmark because it indicates how much of the **ED**'s time has to be spent asking for information that the Board is rightfully entitled to have.

COMMITTEE REPORTS

1) PUBLIC AWARENESS COMMITTEE – LOGO DEVELOPMENT

- a. **OM** stated that each member should have a copy of the logo that was voted and selected by the Board. The marketing company is moving forward designing the website and completion of all the other documents.
 - b. **SS** asked if a timeline had been provided outlining when everything would be ready.
 - c. **OM** stated that we do not have a timeline but that we were given a list of task that still have to be completed; however, since the logo has been done, things can move fairly quickly.
 - d. **SS** and **SK** thanked the members of the Committee for doing a great job.
- 2) **RULES and PROCEDURES COMMITTEE**
SS stated that earlier in the meeting she proposed, another meeting to *flesh out* things to get a feel for what works. The Committee met a couple of weeks ago, and progress was made but nothing is final. She asked the Board to bear with the Committee a little longer and they will report on the proposed Rules and Procedures.

OTHER BUSINESS

1) ELECTION OF OFFICERS

- a. **SS** stated that by Ordinance, the Board has to elect officers at every February board meeting. She announced that she would not be seeking support to continue as Chair but instead is endorsing **RE** as Chair, **SK** as Vice Chair and **JM** as Secretary. **SS** stated she had enjoyed serving as Chair and remains committed to the Board.
- b. **RE** stated that this past year and a half, all the members have had to do a tremendous amount of work and **SS** has done an outstanding and wonderful job in guiding the Board to this point. He further stated that he would like to personally recognize her for all the hard work she has done as Chair and a member of the Board.
- c. **SK** asked everyone to join him in an ovation for **SS** for doing an outstanding job as Chair.
- d. **SS** stated that **LH** proposed that the Board cast ballots for the election. Once the votes were tallied, **SS** announced the following results: Rod Edmond was elected as Chair; Seth Kirschenbaum was elected as Vice Chair and Joy Morrissey elected as Secretary.
- e. **Note:** New officers will preside at next meeting.

PUBLIC COMMENTS

None

EXECUTIVE SESSION

- 1) **SS** entertained a motion to go into Executive Session @8:20pm. **JMM** moved to go into Executive Session; **OM** – Second; Vote - Unanimous approval.
- 2) Executive Session ends-8:30 PM

PERSONNEL

1) APPROVE NEW HIRE

- a. **SS** entertained a motion to approve hiring of new staff.
- b. **RD** moved to approve hiring Sheena Robertson as Investigator, **JMM**–Second; Vote - Unanimous approval.

2) APPROVE SALARY

- a. **SS** entertained a motion to approve for Ms. Robertson’s salary.
- b. **JM** moved to approve salary for Ms. Robertson under \$50,000, and **RD** – Second; Vote - Unanimous approval.

ADJOURNMENT

JM moved to adjourn; **JMM** – Second; Unanimous approval.
Adjourned at 8:35 P.M.