

(Approved 06.11.09)

ATLANTA CITIZEN REVIEW BOARD OFFICIAL MINUTES

Meeting Date: May 14, 2009, 6:30 PM

Location: 55 TRINITY AVENUE, S.W., COMMITTEE ROOM #1, ATLANTA, GA 30303

BOARD MEMBERS IN ATTENDANCE

J.L. BOOKER (*Booker*); RODERICK EDMOND (*Chair/Edmond*); OWEN MONTAGUE (*Montague*); KATHY CRAWFORD (*Crawford*); SHARESE SHIELDS (*Shields*); SETH KIRSCHENBAUM (*Kirschenbaum*) arrived 6:42PM; JOY MORRISSEY (*Morrissey*) arrived 6:40PM; CHARIS JOHNSON (*Johnson*) arrived 6:55PM; JOHN MICHAEL (*Michael*) arrived 7:15PM

BOARD MEMBERS ABSENT

LASHAWN HOFFMAN (*Hoffman*)

STAFF ATTENDEES

CRISTINA BEAMUD (*Director/Beamud*), Executive Director; SHEENA ROBERTSON (*Robertson*), Investigator

CALL TO ORDER

Chairman *Edmond* called the meeting to order at 6:37 p.m.

APPROVAL OF MINUTES OF LAST MEETING

Edmond entertained a motion to approve the minutes of April 9, 2009 Board Meeting. It was moved by *Booker* to approve the Minutes. *Montague* seconded. Motion approved.

OLD BUSINESS:

A. TRAINING SCHEDULE

1. *Beamud* stated that she had spoken with some professors at UGA who are experts in the areas where we are required, by Ordinance, to be trained. The professors believe that they can do the training in four hours. The question is how the Board would like to schedule the training. It can be divided into 2 hour slots or all on the weekend.
2. *Edmond* then asked the Board if they would be opposed to training once every quarter.
3. *Montague* stated that other than the police training, we have had only one training workshop. He stated that he felt that twice a year would be sufficient.
4. The Chair then recommended scheduling the training in September on a Saturday morning. *Edmond* requested the Director to check with UGA and see if the professors could do the training in three hours instead of four preferably from 9AM until noon.
5. *Beamud* stated that she would check

B. PHOTOGRAPHS OF THE BOARD FOR WEBSITE

Edmond stated the Director still needed photographs of each member to put on the website.

C. JENNIFER THOMAS COMPLAINT INVESTIGATION

1. *Beamud* indicated that she had received from the Law Department, a legal opinion concerning meetings for Boards such as this. She stated that whenever a quorum is present, the meeting must be posted for public knowledge and you must allow public access. She said, “At our last Board meeting, the question was asked if we could deliberate this investigation via phone conference. To do so becomes logistically, very difficult when, you have to provide meaningful public access. Deliberation on these kinds of investigation is not something you should rush through. You need to set aside some time to truly talk to one another, study the investigation and come to some conclusion. You can’t do that via email or any other way that could violate the open meetings law. Time is a real issue. This is the heart of what this Board is supposed to do.”
2. *Shields* added that ministerial matters can be handled without the Board. There is competent staff to do that and I agree wholeheartedly that this is what we are supposed to do and this is where we need to spend our time.”
3. *Beamud* said, “Everyone has a copy of the investigation and now you have to decide what process you would like for me to facilitate in order for you to come to your conclusions and really perform the work that the Ordinance envisions.”
4. *Kirschenbaum* stated that he had raised a question at the last board meeting whether the Board was required to have these debates in Executive Session. He asked if the board’s legal advisor, Bill Casting had provided an opinion.
5. *Beamud* stated that Casting did produce a couple of memos that may be helpful.
6. *Kirschenbaum* also asked how the Ethics Board conducted its debates.
7. *Beamud* stated that Ethics discuss them openly. She further stated that although a lot of legitimate points are raised, this particular case is not the case that is going to try the difficulty of this law. Because it is not an open criminal investigation and it doesn’t involve anybody’s privacy rights or investigative privileges but, there may come a time when that might be different.
8. *Edmond* asked if we knew for sure if the case was closed by OPS.
9. *Beamud* stated that OPS had closed the case with no action. She said, “If there is any discretion to be exercised and you feel there is no criminal allegation, or anything that is sensitive or confidential, I feel that the purpose of this type of board is to open the process, not close it. We should look at how we can provide more transparency, not less. My recommendation specifically, in the Thomas case, is to hold it in public. However, I can’t say this about all cases that we will review.”
10. *Beamud* stated that when reviewing a case, she feels that the choices are going to come down to this: a.) Accept the recommendation as presented in the report; b.) send it back for more investigation, or c) choose to conduct a public hearing.
11. *Kirschenbaum* stated that he agreed with the Director and he thought that the public would desire or demand that to the extent possible, we operate openly and have public hearings. Referring to the Ordinance, Section 2- 22:12, page 7, and as a point clarification, he asked,

“Does it mean we have our debate in the open but when it comes time to making a decision, we then go into Executive Session?”

12. **Edmond** stated that we have to abide by the State law and the Atlanta Ordinance. He said, “The state law basically states that we cannot give up information from investigations that are ongoing. The Atlanta Ordinance just talks about confidential documents but doesn’t clearly define it. The benefit of the Board, given the state law, is the public can have confidence that even though the average citizens can’t get information, we can let them know that we are looking over the Police shoulders. We need to make our debates transparent, but functional; the police will continue to do what they have been doing for the last 20 years...keeping investigations open for ever. That in itself will make it as such that we can’t release any reports to the public. But again, we can look at it and let the public know that we have made a recommendation.”
13. **Edmond** stated that we need to move on and make the Thomas case a priority discussion at the next meeting.

D. PUBLIC SAFETY COMMITTEE MEETING

The Public Safety work session will be held Friday, May 29th at noon. **Edmond** stated Committee members plan to raise and entertain the proposed changes to the Ordinance per the recommendation of the Committee on Council. Board members able to attend should discuss what we are going to do and say.

E. TELEVISED BOARD MEETINGS

1. **Edmond** stated that at the last board meeting, the body agreed that televising the meetings was something we should do at this time. He asked the body if anyone felt differently, to please weigh in their comments.
2. **Beamud** reported that she had spoken with Beverly Isom, Director of the Mayor’s Office of Communications. Ms. Isom’s office manages Channel 26. **Beamud** stated that she asked what it would take to televise the meetings. Isom indicated that she couldn’t do another meeting because in order to expand the schedule, her office would need new equipment. Isom said that it would mean paying \$35 dollars an hour in overtime to technicians. We would be responsible for the associated costs. Isom indicated that the reason the Ethics and License Board meetings are televised is that the ordinance establishing them requires it. **Beamud** said Isom is reluctant to commit to work that isn’t required by law.
3. **Booker** asked a question regarding Ms. Isom’s comments. He said, “If the equipment is not up-to-date to run our meetings, why is it sufficient *to run* the other Board meetings?”
4. **Montague** stated that while he agreed with **Booker**, the important thing to remember is that the majority of the members do not want the meetings televised.
5. **Shields** stated that when the Board was first *formed*, Rhonda Dauphin Johnson, Municipal Clerk, called her to encourage the Board to televise its meetings. Considering this, and as a matter of record, it should be noted that this body has talked about televising our meetings and have also inquired about it but was told that there were no resources to do it.
6. **Edmond** asked the Director to find out if it is possible to televise a specific meeting if we should want to do so. **Edmond** asked, “Can we collectively agree that at this point, we

don't want to be televised, but we do need to know the mechanism by which *we can* if the situation arises." *Edmond* then asked if any member disagreed.

NEW BUSINESS:

A. POSITION PAPER AND TALKING POINTS

1. *Edmond* stated that a couple of weeks ago, the Board had a Special Call meeting in response to the push back we received from the Committee on Council. The Committee refused to issue a subpoena that we requested in order to obtain the information about the shooting on Cheshire Bridge Road. At the Call meeting, the Board agreed to issue a position paper. Edmond asked Board members to review it. The notion is to put the issue back in the spirit of the public that created the Board. It was sent to media, stakeholders, City Council, Mayor, the Chief of Police. Since the statement was released, another shooting has occurred. The statement is getting attention and the community seems to be supportive. The Mayor is interested in meeting with us. Everyone should have a copy of the e-mail she sent in response to the statement. He then asked for each member to personally comment on whether or not they agreed or disagreed.
2. *Shields* stated that when we asked Council to issue a subpoena, she was surprised by their action and indicated that the Board should be more aggressive. .
3. *Montague* stated that the only thing that the City's administration seems to respond to is pressure from the community and bad PR.
4. *Crawford* noted that after seeing the Chair on the newscast, she received several calls inquiring about what was going on. She said, "In a nutshell, I said it's like closing the barn door after the horse has gotten out. The Ordinance as it was originally written wasn't a problem until we started requesting information from APD and now it is an issue. APD has basically said it wasn't an issue then, but it is now and we need to block it. The people that I spoke with are in support of us because as long as it has been since Kathryn Johnston was killed, the Police Dept still has an open investigation. I don't know if they have just decided to just closed the book on it and put it on somebody desk and said we will get back to it the year 3000 or they are just not really concerned with doing anything with it. I can go on record and say my community is in support of us pushing this until we get some clarity."
5. *Edmond* said, "It is important for us to stay above the fray. The issue is that they created the Board and the Police are violating the law without giving us the information that we need." He also asked the body to be mindful when talking with people, to avoid discussing details of the complaints that we reviewing.
6. *Booker* stated that this is not just unique to Atlanta, but all over the country. He said, "I am very serious about my commitment to this Board. I am here because I plan to be fair to the citizens, the Police and Corrections officers. We have problems in the City that we must address."

B. LEGAL OPINIONS

Edmond stated the first question was whether or not the Board could initiate its own investigation. In response to that question and Code 2-221-d, Bill Casting, Legal Advisor, states in his opinion, dated April 27, that the Board, unilaterally, can initiate its own investigation. In reference to questions regarding teleconference meetings, in a the other

opinion dated April 27, Casting wrote that if the Board plans to have a teleconference meeting, we have to abide by the open meeting requirements which include posting a notice and giving the public access to the meeting.

C. PROPOSAL TO INITIATE A STUDY OF THE DEATH KATHRYN JOHNSTON

1. The **Chair** referred back to an earlier question posed by **Booker** regarding the Board being able to investigate a case without the public filing a complaint. **Edmond** stated that this Board was created in the wake of what happened to Ms. Johnston and we have the ability to initiate an investigation on our own.”
2. **Shields** inquired about the purpose of the investigation and whether there are any systemic issues with the Police Department or is it because we think the investigations that have been done have been lacking in some way?
3. **Edmond** Believes that the public will have a chance to see the depth and breadth of the problems that gave rise to Ms. Johnston being shot and with the subsequent investigation. The public is owed our inspection of the case.
4. **Montague** expressed doubts the Board would get information from the police.
5. **Edmond** Expressed that he did not expect cooperation from police but that we can put the ball in their court.
6. **Montague** asked if the 180 days limitation applied to this case.
7. **Edmond** cited the opinion by Castings that indicates that “studies” do not have to fall within the 180 days.
8. **Kirschenbaum** stated that he shared **Montague’s** concern regarding resources however, we probably should request the Council to issue a subpoena for the Kathryn Johnson case even if we don’t get it.
9. **Shields** stated that she agrees with the base of what the Chair’s statement. She said, “If nothing else, there is a great educational opportunity here; however, I take issue with the term *investigate*. When I look at the Ordinance we have the authority to review broader issues to study that which may be of concern to the community, and I put Kathryn Johnson in that category. Also, it further states that we may issue studies upon request. I don’t think we can trust that a full investigation has been done, but we may be able to see some systemic problems and trends.”
10. **Morrissey** said, “Both sides of the argument to investigate this case are good. However, the smart thing to do is find a spot in the middle and make it work from both sides. I agree that this case is a great educational and training opportunity that would be a down the road conclusion of it all and I think this is where we make a real difference.”
11. **Edmond** said, “Instead of an investigation, it can be called a review.”
12. **Michaels** said, “Since the Chief had called in the Feds on this case, why can’t we get that information.”
13. **Beamud** stated that she has submitted an open records request to them.

14. **Beamud** stated that studying the whole Kathryn Johnston matter is huge. She said, "I am hoping that if I get all the documents from the Feds, for example, that it will be fairly quick. Then we would only have to conduct the interviews...going to the prisons and interviewing the three subject officers and the informant. What is going to take a lot of time and effort are questions such as: what were the roles of the supervisors; were they following all of the SOPs concerning how you handle confidential informants (*the SOPs involving confidential informants generally, involves some very complicated and detailed requirements on the part of the police*); was the search warrant executed properly and more importantly, is the supervisor liability; what kind of supervision were they getting? As a study, not just the Johnston case, but in general, what were they doing, and why is it that nobody, including supervisors or colleagues of the officer, blew the whistle?"
15. **Johnson** said, "But it sounds as though we are doing two things: a study where you try to see if this is not an isolated incident and we are also asking to investigate or review the particular incident."
16. **Kirschenbaum** stated that the review of the Johnston case is a *jumping-off* point for the Board issuing a report and a set of recommendations that the Police Dept has not done.
17. **Johnson** agreed and said, "It looks like, I don't recall the Police Department saying... 'as a result of this...we are doing that...'"
18. **Beamud** stated that she spoke with Greg Giornelli about this matter and he said that Chief Pennington transferred everybody and then he provided training. That was their response.
19. **Edmond** said, "Can we collectively agree that the Johnston incident should be reviewed by the Board? Is there anyone that disagrees with this?"
20. **Morrissey** stated that she couldn't go alone with that statement because it was too restrictive. She said, "I think we want to touch upon this in some way. I think we should have some position statements, if you will, about this case. We would be gathering information about this case and we need to have some statements ready from the beginning for when we need them."
21. Responding to **Morrissey's** question about what the Board should do regarding the case, **Kirschenbaum** stated that we should initiate a review of the Kathryn Johnston case and authorize our Executive Director the rights to seek all information relating to the Johnston case that we can obtain and review it and make a report to the Board and recommendation as to what we should do as a result of that review. We can either issue an opinion or just make recommendations. The problem is we don't know enough now to know whether we need to investigate."
22. Regarding the open records request, the Director made to the Feds, **Johnson** asked if we could make an open records request as a Board to the City.
23. **Beamud** stated that the answer will be that they have an active investigation going on and deny the request on that basis. She said, "With the Feds, I am not sure what the response is going to be. They have 20 business days and I just made the request about 10 days ago."
24. **Crawford** stated that her concerns go back to the resources. She asked, "If we are spending manpower and dollars on all the other cases, where are we going to get the people and dollars for this case?"

25. **Edmond** responded by saying, “It is a real possibility that with big cases that require time and money, we could run out of resources; however, we have a job to do and we can’t let resources temper how we go about investigating cases. We need to investigate cases and if we run out of money, we go back to the Council about our budget.”
26. **Kirschenbaum** agreed that the Board could not shy away from big cases just because we don’t have resources... whether it is this big case or the next big case. He asked, “What do we exist for and are we here only to do the small cases?”
27. **Shields** stated that at this point, we are just asking for information and that doesn’t take a lot of resources. She said, “Why can’t we just get the information, see what it is and let the staff tell us what it is going to involve and then we decide how much of our time and resources we want to devote to this case. I think that was the point that the Chair was making earlier about collectively agreeing to review the case.”
28. **Shields** said, “I moved that the Board vote to review the Kathryn Johnston file and that our Executive Director go about requesting the necessary reports and documentation to bring before the Board.”
29. The motion was seconded by **Michael**. Discussion: **Montague** stated that he felt the motion was too broad and asked for the motion to be clarified.
30. **Shields** stated that she would like to withdraw the motion and make a new motion.
31. For the record, Shields motion was withdrawn and she clarified her intent.
32. **Edmond** summarized the motion **Shields** proposed. He stated that the motion is to have the Board request documents and information relevant to the Kathryn Johnston shooting maintained by any and all governmental agencies and to the extent that this information is not produced that we as a Board request the Committee on Council to issue a subpoena in order to get that information. **Michael** seconded the motion. Motion approved with an opposing vote from Crawford.

D. PROPOSAL TO INITIATE A STUDY OF SHOOTING OF TREAMAINE MILLER

1. **Edmond** stated that just as the Johnston case, the same issues exist with the Miller case. **Edmond** asked the body how they felt about reviewing this case.
2. **Kirschenbaum** stated that he thought the Board should wait.
3. **Edmond** stated for the record that he disagreed.
4. **Michael** stated we should wait, but get out in the communities and hear from the people.
5. **Shields** stated that there can be a danger in asking for information that we are not prepared to do anything with; but on the other hand, asking for information doesn’t mean we are going to get it timely either. She said, “**Kirschenbaum** concern is creditable.”

E. MEMO TO MAYOR/CITY COUNCIL REGARDING THE REFUSAL OF OFFICERS TO GIVE STATEMENTS

1. **Edmond** stated that the Director has interviewed a number of officers and they are basically refusing to cooperate which is in violation of the Ordinance. A memo has been drafted to be sent to the Mayor. The Chair asked each member to read over the Draft and if there were any comments, share them with the Director prior to the final draft.
2. **Beamud** indicated that she needs the information from the Police Department, If they are not going to help me get it, let's all go home. Even with a staff of 35 people, I never have the access to information and resources that the Police Department has.

OTHER BUSINESS:

A. UPCOMING MEETING WITH THE MAYOR

1. **The Chair** stated that there will be a meeting with the Mayor including himself, **Kirschenbaum**, **Morrissey** and the **Executive Director** to basically discuss our position. **Edmond** also asked the **Director** to find out who will be attending the meeting. He noted that his schedule is very busy and in the event he cannot make it, he wants to make sure the meeting proceeds. He suggested that perhaps **Johnson** could attend if he is unable to attend.
2. **Edmond** stated that he felt for this particular meeting, it is proper for the officers to attend and the **Executive Director**.
3. **Kirschenbaum** said the Mayor is aware that the purpose of this meeting is for us to air our grievances with her about the way our Board has been treated by the City. I would object to Chief Pennington attending the meeting because this would run counter to our very purpose of the meeting. In her email, she said, I will make myself available to meet with you. It that is what the meeting should be us meeting with her. If she wants to have staff such as the Chief of Staff or COO that is fine, but having Pennington at the meeting will change the tenor of the meeting.
4. **Edmond** stated that he agreed and asked the Director to find out who will be attending the meeting from her staff or Cabinet.

PUBLIC COMMENTS:

There were no public comments.

ADJOURNMENT:

The Chair entertained a motion to adjourn. **Crawford** moved to adjourn; **Johnson** seconded. Motion approved. Meeting adjourned at 8:24 p.m.