



**ATLANTA CITIZEN REVIEW BOARD
MINUTES OF THE LAST MEETING**

OFFICIAL MINUTES

May 13, 2010, 6:30 P.M.

55 Trinity Avenue, S.W., Committee Room Two, Atlanta, Georgia 30303

BOARD MEMBERS IN ATTENDANCE

JOY MORRISSEY (Chair/Morrissey); **J.L. BOOKER** (*Booker*); **RODERICK EDMOND** (*Edmond*) arrived at 7:20 p.m.; **CHARIS JOHNSON** (*Johnson*) arrived 6:41 p.m.; **SETH KIRSCHENBAUM** (*Kirschenbaum*); **JOHN MICHAEL** (*Michael*); **ALAN MORRIS** (*Morris*); **SHARESE SHIELDS** (*Shields*)

BOARD MEMBERS ABSENT

OWEN MONTAGUE (*Montague*)
MACEO WILLIAMS (*Williams*)

STAFF ATTENDEES

MARC ADDINGTON, Investigator (*Addington*); **CRISTINA BEAMUD**, Executive Director (*Director/Beamud*); **SHEENA ROBERTSON**, Investigator (*Robertson/Transcriber*)

GUEST ATTENDEES:

Major Moses Perdue, Office of Professional Standards, Atlanta Police Department
John Timberlake
Jim Walsh
Sonji Jacobs-Dade

CALL TO ORDER

Chair Morrissey officiated the meeting. The meeting was called to order at 6:37 p.m.

A G E N D A

APPROVAL OF MINUTES OF THE LAST MEETING:

The *Chair* asked if there were any corrections to the minutes. There were no corrections noted. *Michael* moved to approve the Minutes for April 8, 2010. *Shields* second and the motion was approved.

ACTION ITEMS:

REQUEST FOR SUBPOENAS:

Beamud reported that APD Officers, Jeff Branum, Peter Trotta, David Stribbling, Peter Malecki and William Johnson refused to give statements to ACRB concerning two separate investigations (case #09-37 & 10-04) after they were notified to appear and is therefore requesting the Board to vote to seek subpoenas.

Following the discussion, it was moved by *Kirschenbaum* to approve the subpoenas. Motion was seconded by *Morris*. Motion approved.

APRIL INTAKE REPORT:

A copy of the Director's intake report was distributed to each member present.

Beamud requested an amendment to the memo concerning case #10-32. She reported to the Board that the office received the complainant's signed complaint after the memo was drafted and is therefore requesting that her recommendation to dismiss be changed to investigate. The change was approved by all Board members present.

It was then moved by *Kirschenbaum* to accept the Executive Director's report. *Williams* seconded and the motion was approved.

PUBLIC SAFETY COMMITTEE MEETING REPORT:

Kirschenbaum reported that he attended the Public Safety Committee Meeting that was held on May 11, 2010 and provided details to the Board.

Kirschenbaum stated the Public Safety Committee was supposed to discuss the Boards' proposal to amend the ordinance however prior to the commencement of the meeting they learned that the Mayor's Office had asked for the matter to be put off for two weeks so they could study the proposal and it was expected that the matter would be tabled for two weeks pursuant to the Mayor's request. However, the matter was sent to the full Council without the Committee's recommendation and will be heard at the next Full Council meeting to be held Monday, May 17, 2010.

Kirschenbaum informed the Board that he will be unable to attend the Full Council Meeting on Monday because he will be out of the country however he expressed that if was able to do so he would have attended the meeting to advocate for the passage of the ordinance amendment.

Morrissey asked *Kirschenbaum* to describe to the Board the proposed changes to the ordinance.

Kirschenbaum pointed out to the Board the three proposed ordinance changes:

1. Ordinance to be amended to reconcile the Open Meetings Act with the ordinance current

requirement to wait three days before releasing decisions publicly;

2. authorize the Board to have subpoena power;
3. require the Police Chief or the head of Corrections to discipline officers who refuse to cooperate with ACRB's investigations.

Kirschenbaum suggested that some of the Board Members be present at the Full Council Meeting to advocate for the proposed ordinance changes. He especially recommended that one of the attorneys on the Board attend and make a cogent argument to the City Council.

EXECUTIVE DIRECTOR'S REPORT:

Chair Morrissey called attention to the Executive Director's Report. A copy of the report was distributed to each member present. *Beamud* reported the following:

A. CORRESPONDENCE WITH THE CHIEF

Beamud provided each member with copies of the correspondences discussed. She gave an update on Chief Turner's response to correspondences previously sent to him from the Board regarding two ACRB cases:

1. Case #09-04: Chief Turner responded today indicating that the case is still under investigation;
2. Case #10-01: Chief Turner responded today indicating that he completed his review and accepted the Board's recommendation of Unfounded.

B. QUARTERLY REPORT

Beamud provided each member with a copy of the Quarterly Report. *Beamud* stated that the report provides a synopsis of what cases ACRB has completed and what cases are still pending investigations.

C. BUDGET

Beamud reported that ACRB is expecting to receive a 10% budget increase. The 10% keeps ACRB at status quo because *Addington* was not hired until mid-year, so we need to account for a full year's salary for the next fiscal year. 10% of the budget is \$30,000 which will be used to pay *Addington's* salary and some of the money will be put in the training budget.

REPORT OF THE PUBLIC OUTREACH COMMITTEE:

Shields provided the Board with details of what occurred at the Public Outreach Committee Meeting that was held on May 4, 2010. She stated that the purpose of the meeting was to discuss

and develop a plan for ACRB to conduct Public Outreach. She stated that the Committee looked at the City of Portland's Independent Police Review Division Community Outreach Plan that was distributed to the Board last month and decided to use it as a guide to develop their own outreach plan and decided on the following components:

1. The Committee will first identify ACRB's stakeholders—*Michael* and *Williams* will work on gathering that information.
2. *Montague and Morris* will work on developing strategies for communicating with those stakeholders.
3. *Shields* will work on developing what ACRB's message and objectives are in communicating with those stakeholders.

Shields stated that the Committee will put the plan together and present it to the Board at the June 10, 2010 meeting.

DISCUSSION REGARDING STRATEGY FOR IMPLEMENTING THE ORDINANCE:

Edmond was not present to report on this matter; therefore the Board agreed to discuss this agenda item at a later time.

DISCUSSION OF STRATEGY FOR CITY COUNCIL CONSIDERATION OF PROPOSED ORDINANCE CHANGES:

Beamud stated this agenda item is about how to address the City Council concerning the proposals to the ordinance.

Morrissey opens the floor to discussion...

Morrissey, Shields and *Beamud* stated that they will be attending the Full Council Meeting on Monday, May 17, 2010.

Kirschenbaum stated that it is really a question of explaining to the Full Council why the Board is seeking the proposed ordinance changes. The three day thing is not controversial. It's just a housekeeping matter. The other two items such as the subpoena power is just explaining to the Full Council why we are doing it. The fact is that we have to go through all of this bureaucratic hoop jumping to get subpoenas issued is a waste of time and resources and they should allow us to issue our own subpoenas. *Kirschenbaum* then stated the other issue is the discipline issue.

Shields stated she has a question about the discipline of officers who do not cooperate with ACRB's investigations and do not submit to interviews. She asked "What is appropriate disciplinary action? Where would the police go to make that determination? Is there some sort of SOP that arguably could be relied upon in determining what sort of disciplinary action to take?"

Morrissey asked **Major Perdue** to address **Shield's** question.

Major Perdue stated that the department has a SOP to determine the level of discipline that should be imposed upon a particular officer.

Kirschenbaum asked **Major Perdue** what is the discipline imposed upon on an officer who is ordered to report to OPS for an interview and refuses to talk or pleads the fifth.

Major Perdue stated that the officer will be disciplined; however, it depends on the case and the officer's prior disciplinary history. The department has a reckoning period.

Shields feel that the problem with the proposed amendment is that it gives the Chief the discretion to determine the "appropriate disciplinary action." She stated that she plans to attend the meeting on Monday and will speak and advocate the board's position but would like to get a sense from the board if they agree or open up the discussion the apparent problem with the language of the proposed section of the ordinance that talks about disciplinary action and would be in favor of advocating for something that is a little stronger in the language of what would be considered appropriate disciplinary action.

Major Perdue stated the same level of disciplinary action to be imposed is up to determination if they don't cooperate.

Shields stated the disciplinary action in the ordinance should mirror the disciplinary action OPS impose when officers refused to cooperate.

Johnson asked if the Board can make such a recommendation to the Full Council to modify or correct the ordinance at the Full Council meeting or does it need to go back to the Law Department or the person who drafted it to make the change.

Shields replied that she did not know but thinks they have to bring it to the Full Council's attention.

Kirschenbaum stated he thinks it has to go back to the Public Safety Committee in order to make a change to it since the proposed ordinance is already before the full Council.

Beamud stated she was not sure if all amendments would have to go back to the subject matter committee. She told the Board that if they want to address an amendment it was their prerogative to do so. **Beamud** stated she took this language out of Washington D.C.'s ordinance because it still gives the police chief the discretion to decide the appropriate disciplinary action. She also added that she understands the Boards' concerns regarding this issue based on the Chief's track record.

Kirschenbaum asked **Major Perdue** about APD's disciplinary manual.

Major Perdue stated that it describes their disciplinary process.

Johnson asked are we confident that we have enough votes from the City Council to get this ordinance passed.

Morrissey and *Kirschenbaum* stated they did not know.

Morrissey asked *Beamud* if any particular council members were in favor of the proposed ordinance changes.

Beamud stated Lamar Willis and Ivory Young are in favor of it. She stated that it looks like they have a majority but did not want to speak for anybody else.

NEW BUSINESS FROM MEMBERS:

Michael announced his resignation from the Board due to his recent employment with the City's Workforce Development. He expressed that he did not feel that it was a conflict of interest but will still make his resignation effective as of the conclusion of this meeting.

Kirschenbaum and *Morrissey* thanked *Michael* for the time he served on the Board.

Before moving to the next agenda item, *Beamud* wanted to bring to the Board's attention two items that were distributed to them prior to the commencement of the meeting:

1. First, is the binder containing transcripts that apply to an investigation that *Addington* completed concerning one of the complainants of the Eagle Bar. *Beamud* stated that there will be other investigations; we're separating them out so we can be sure to address the individual complaint of each complainant. In the binder is the investigative report concerning one of the complaints and all the transcripts we had produced concerning the officers' statements. *Beamud* informed them to keep the transcripts accessible to them because they will be needed for the subsequent investigations that they will be getting in the upcoming months.
2. Next, is the blue file that contains the confidential report that *Beamud* produced at the Board's request concerning the Kathryn Johnston case. She stated that it is not advisable that the matter be discussed tonight. She has been advised by the law department that it is confidential for the next ten days and after that it will probably be made public. *Beamud* stated that a copy of the report has been sent to the Mayor, the Police Chief and Major Perdue so that there will be no surprises.

Kirschenbaum commented that *Beamud* sent him a copy of the report this week to review and he read it and commended *Beamud* for doing an excellent job on the report and stated that it just demonstrate how wise they were for selecting her to be their executive director.

DISCUSSION REGARDING STRATEGY FOR IMPLEMENTING THE ORDINANCE:

Edmond arrived and the discussion was brought back to this agenda item.

Edmond recommended to the Board that they entertain a motion at some point to sue the Atlanta

Police Department for their lack of compliance with the ordinance and would like to hear what the other board members think on this issue.

Morrissey opened up the floor for discussion...

Kirschenbaum told Edmond that he respects his opinion but thinks it is premature to make such a move at this time. He stated that in his opinion this is still a very young administration and Mayor Reed has only been in office since January. He believes that the Mayor supports the Board and thinks we need to give him a chance. **Kirschenbaum** also thinks that regardless of what the police dept has done in the past and still continues to do, we still have an acting chief. We don't have a new police chief yet who has establish what his or her policy is going to be going forward and believes that suing the city at this point is premature.

Edmond stated that he has the utmost respect for **Kirshenbaum** but stated that you can't ignore reality. Mayor Reed is not the issue. The issue is the ordinance. The issue is the will of the people. The issue is that we have a law that has been passed three years ago that has not been implemented and being violated by the police with the knowledge of all administrators in this administration from the highest level to the lowest level.

Booker stated, "No man is above the law." I have been here since day one and would like to see what we came to do to be completed and be able to do our job and do it well.

Kirschenbaum feels we are making progress even though it is incremental and thinks we need to keep the faith and our cool and continue forward. He stated that he believes Mayor Reed is going to support this Board.

Edmond stated that our job is not to *coddle* the Police Chief or the Mayor. Our job is to carry out the ordinance and we took an oath that we would carry it out.

Michael commented that he mostly agrees with **Edmond**. He would back a lawsuit to get them to make a decision and make it public so that this Board could go forward.

Johnson asked how the Board would pay for a lawsuit.

Edmond stated the city would sue itself. We have a representative from the legal department and would think that when they look at what has transpired, they'll agree that the police department has violated the law and we will do a mandamus action against the police department and it won't cost us anything.

Kirschenbaum moved to table this discussion until we can get an opinion from the Law Department about this idea and the mechanics of it and even whether it is possible. He stated that he does not think that we have enough information yet to even consider a motion of this nature. Motion seconded by **Johnson**. Motion failed.

Morrissey called for a roll call vote. She told **Michael** that he could not vote on this issue because it would be an ethics violation due to his recent employment with the city and he is no longer a member of the Board. The motion was put to a vote and it failed.

Edmond then moved that we as a Board sue the Atlanta Police Department for persistent and continuous violation of the ordinance that gave rise to the existence of this Board by any legal means that we identify after consultation with the Atlanta legal department. Motion was seconded by **Morris**.

Discussion...

Kirschenbaum stated he thinks that this would be the biggest mistake that we ever made as a Board. It is not called for and irresponsible. We have board members that are not present to take part in this momentous and critical debate. He also announced that next month is his last meeting. He reiterated that this is not the way to do business with this new administration and thinks that it would be an egregious miscalculation and a mistake to file a lawsuit at this time.

Morrissey stated that she thinks that **Kirschenbaum** makes a very good point about not having all of the Board members present to take part in this important discussion. She requests **Edmond** to consider withdrawing his motion until all of the board members are present.

Edmond stated that since all of the board members are not present at this time, he agreed to withdraw the motion; however, he indicated that he will bring the matter up again at the next board meeting.

PUBLIC COMMENTS:

There were no public comments.

ADJOURNMENT:

The Chair entertained a motion to adjourn. **Booker** moved to adjourn and **Morris** seconded. Motion approved. Meeting adjourned at 8:12 p.m.

Transcribed by SHR/Edited by Johnson