ATLANTA CITIZEN REVIEW BOARD
MINUTES OF THE LAST MEETING

OFFICIAL MINUTES
June 10, 2010, 6:30 p.m.
55 TRINITY AVENUE, S.W., COMMITTEE ROOM TWO, ATLANTA, GEORGIA 30303

BOARD MEMBERS IN ATTENDANCE
RODERICK EDMOND (Edmond) arrived 7:35 p.m.; SETH KIRSCHENBAUM (Vice-Chair Kirschenbaum); CHARIS JOHNSON (Johnson) arrived 6:45 p.m.; JOY MORRISSEY (Chair Morrissey); ALAN MORRIS (Morris)

BOARD MEMBERS ABSENT
J.L. BOOKER (Booker); OWEN MONTAGUE (Montague); SHARESE SHIELDS (Shields); MACEO WILLIAMS (Williams)

STAFF ATTENDEES
MARC ADDINGTON, Investigator (Addington); CRISTINA BEAMUD, Executive Director (Director/Beamud); MYOLA SMITH, Administrative Analyst (Smith/Transcriber); WILLIAM CASTINGS, Board Legal Advisor, COA Law Department (Castings)

Guest Attendees: Commander Major Moses Perdue, Office of Professional Standards, Atlanta Police Department

Due to a lack of quorum, the meeting was delayed in being called to order by the Chair until the arrival of additional board members. It should be noted that this is first time such a delay has occurred in the three year since the Board was established. Chair Morrissey used the time to draw attention to the recently completed Kathryn Johnson report and to other issues that did not require a vote by the Board.

Kathryn Johnson Study:
Chair Morrissey stated, “In spite of the hurdles that the staff faced, the report was completed in a timely manner. I want to thank Director Beamud for her diligent and accurate work on this momentous accounting of what really happened in the Johnston murder in Atlanta, Georgia. This report is so important it should be included in the newcomer packet for all subsequent board members of the ACRB. I suggest that the Police Department consider using it at the academy as well.”

“Today should be only a beginning to put back into our police force the professionalism that it once had. Accountability and transparency are popular words to throw around right now but if there is meaning to the words, and not just smoke and mirrors, then we should see real changes to the system and polices of the Atlanta Police Department. So what happens in the
future...change...real change or press conference change...? Do we walk away from all the lives and careers ruined or do we demand our Mayor, with input from City Council, give us the best Police Chief for the job. No one should get this job unless they are best qualified! Not now after what we have been through!"

Comments from Vice Chair Kirschenbaum:

_Vice Chair Kirschenbaum_ announced that this was his last board meeting. He shared some of his thoughts at the completion of three years on the Board. He stated, “It has been very, very hard work and it has taken hundreds and maybe thousands of hours of my time but it has been a real privilege to work with my fellow board members. We have made new friends and accomplished a lot. When we first started out, we didn’t have the great staff that we have now. It was just eleven citizens with full time jobs who had to put together this board with no support from the City, but we did it. We conducted a national search for an Executive Director, Cristina Beamud, and I think we got the best person for the job in the country. She hired a great staff and we are up and running...conducting investigations and making recommendations. If anybody cares to scrutinize our investigations and wonders if we are bias or do we care one way or the other, you will see that we have recommended that citizen’s complaints be dismissed more than we have recommended that they be sustained. Everybody on this board has done his and her utmost to adhere to the center and to be as impartial as possible, because we knew in order for this board to have credibility, we couldn’t be perceived as tilting one way or the other...either for the police or against them...or for citizen complainants or against them. We had to call these cases as we saw them and that was the only way to gain the credibility that we needed, not only from the citizens, but from the police.

I have been disappointed, but not surprised from the push-back we have gotten from the police department. I understand that no one likes oversight, but it’s been frustrating that the Police Dept has fought us every step of the way being uncooperative. Officers have come in and not answered questions. The police union has been obstreperous and I think it reflects badly on these public servants that they have regarded this Board as the enemy to be fought as oppose to something that is good government and could actually help make the police department a better department. It’s been kind of a World War I type battle where you are fighting for every few feet of terrain. It’s been frustrating on the Board, but we have been making progress. Over the course of these three years, we have slowly but surely, been winning victories. The recent Ordinance amendment giving us subpoena power and requires the police chief to discipline officers if they don’t cooperate, is a great victory for this board and this concept of civilian oversight. It’s been a real privilege and honor to work with you all and I will miss you. I have been talking to Atlanta Bar Association about my replacement and I think we are going to get a real good person to replace me.”

_Chair Morrissey_ presented _Vice Chair Kirschenbaum_ with a certificate of appreciation recognizing his hard work and commitment to the Citizens of Atlanta and the ACRB over the past three years.

**Chief of Police Interviews:**

Four members of the board met with the three finalists for the job of Chief of Police. The _Chair_ indicated that the interviews went well and although this is a crucial point for Atlanta, she stressed the importance of selecting the best and most qualified person.
*Morris* also weighed in on his assessment of the candidates. He said that he liked Dr. Cedric Alexander’s comments about building and developing trust between the community and police. “I think he has a real understanding of what is going on in Atlanta. He seems cerebral and certainly knows his business. Rob White seemed really in tuned with events in Atlanta. He also seemed passionate about wanting to build the trust between the police and the Review Board and he came across as sincere and honest realizing that the relationship needed work. I was impressed by his comments that he would spend the first 60 to 90 days listening and talking with people, but mostly listening to members of the community and members of the police department. Acting Chief Turner did a creditable job and he didn’t say anything that I could find fault with. After talking with all the three, we concluded that Chief White, from Louisville, Kentucky, was the best candidate. I believe our decision was communicated to the Mayor by our **Executive Director.**”

The **Chair** stated that she agreed with *Morris’* assessment. She said, “I felt the sincerity of Chief Turner and I believe that he knows Atlanta; however, the experience that Mr. White would bring, would be a breath of fresh air. There is no doubt that he is a cop’s cop and we need a good strong man in the position and Chief White could be that person.”

**Executive Director Report:**

A copy of the Director’s report was distributed to each member.

Included in **Beamud**’s packet was a draft of the Board’s Policies & Procedures and By-Laws Manual. She thanked **Vice Chair Kirschenbaum** for the work and time he put into developing the Policies and Procedures and By-Laws. **Beamud** indicated that they will be on the agenda for next month’s meeting for the Board to accept and file. Members were encouraged to review the draft before the next meeting.

**Ordinance Modification:** **Beamud** reported that she has arranged a meeting Tuesday of next week with Interim Chief Turner and Major Perdue to discuss how the modifications will be implemented. “We are hoping to iron out some of the difficulties so that we don’t have to get to the point of imposing discipline on the officers.”

**Correspondence with the Interim Chief:** **Beamud** stated that there is still a case that was left over from January. She asked Major Perdue to comment. The Major indicted that the case involving Mr. Askew will be closed out next week. “I will have something in writing to you by the close of next week.”

Regarding other correspondence, **Beamud** reported on a couple of other letters from the Chief. “Whenever we have recommended as ‘Unfounded’ as in the case of #10-01 (Gaines), the Chief accepted that recommendation. Regarding the complaint made by Jeremiah Perdue, the Chief has initiated an investigation.

**Intake Report:** A copy of the report had been omitted from the Board packet. **Beamud** stated that four intakes were done since the last board meeting and that she would email the report tomorrow to everyone.
General Comments:
After the Director’s report, the discussion turned once again to the Johnston case. *Vice Chair* Kirschenbaum noted that there was an article in the AJC announcing that the Police Department closed the case today. He noted that two police officers had been dismissed as a result of the investigation and one, who was facing dismissal, had previously resigned during the course of the investigation. “Our report, researched and written by our *Executive Director* and released in May, basically recommended the same result against the same three officers as was reached by the Chief. This is a momentous moment because this is the first time that our recommendation and the Police Chief’s recommendation, regarding adverse action against an officer, has meshed up. This kind of vindicates the conclusion that ACRB reached in its conclusion and investigation. Also, five additional officers had been disciplined as a result of the investigation and I’m not sure we even knew about them based on the information we were provided.”

*Beamud* stated Chief Turner indicated today that at least some of those individuals were disciplined for minor matters such as using a private vehicle to conduct a drug buy and that wasn’t addressed in the files that were delivered to us.

*Kirschenbaum* stated that the discipline has been addressed; however, there were two other parts Quotas and Extra Jobs are just as important. The ‘quotas system’ was suspected as being one of the main reasons the officers felt forced to cheat because they had to make a certain number of arrest per month to get their numbers. Regarding the ‘extra jobs’ system, police officers were illegally taking money for providing security to business while they were on duty. “The only way to solve these systemic institutional problems that led to the Kathryn Johnson murder is to deal with these kinds of policies that create a climate of illegality in the Police Department. I would hope that this Board would continue to talk about these issues and stay on the Police Department and communicate with the Police Chief and the administration to make sure these kinds of abuses don’t creep back into our Police Department thereby, again, creating a dangerous kind of context for misconduct by police.”

Comments Regarding the Eagle’s Bar Complaint:
Regarding the complaint, the *Chair* also mentioned that the Board was in possession of the disciplinary records for Officer John Brock and B.E. Bridges. “They have been reviewed and I bring it up because, I am not happy with what I see. Reviewing every piece could possibly taking months but I wanted to alert everyone that there is some disciplinary history that we are not pleased with and we hoped that OPS will take a really good look at it, not just for this incident but for down the road. Rules are not being adhered to and standard procedures are not being used and people are cutting corners and this has to stop. We will keep the pressure and do what we can. I am very glad *Director Beamud* will be meeting with Chief Turner and Major Perdue next week because we all are working towards the same goals and this is a great step forward.”

**MEETING CALLED TO ORDER:**

It should be noted that at 7:40 p.m., enough members were present for a quorum and the meeting was officially called to order by the *Chair*. 

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AGENDA

APPROVAL OF MINUTES OF THE LAST MEETING:

The Chair asked if there were any corrections to the minutes. There were no corrections noted. Morris moved to approve the Minutes for May 13, 2010. Vote seconded by Edmond. Motion approved.

ACTION ITEMS:

DISCUSSION OF INVESTIGATION #10-16 COMPLAINT

The Chair directed members to Beamud’s memo dated June 7, 2010 regarding the investigation of Complaint #10-16 / David Shepherd.

A. SUMMARY OF COMPLAINT

Vice-Chair Kirschenbaum summarized the complaint and Investigator Addington handled the staff investigation.

The date of the alleged offense was September 10, 2009. The complainant, David Shepherd, was charged with Operating a Business without a License and Employer to Maintain Current Permits. The citation was signed by Investigator B.E. Bridges and approved by Sergeant Brock. The citation indicated that Investigator Bridges wrote: “Manage the Atlanta Eagle Club and allowed strippers to dance on the bar without a valid permit to do so. Subject did not have a business license to operate an Adult Entertainment business.” The charges were dismissed by the Municipal Court on March 11, 2010 against Mr. Shepherd.

B. WHAT THE INVESTIGATION REVEALED

In a memo to the Board, the ACRB staff indicated that there was no factual support within the police reports or during the interviews conducted by the ACRB to justify the arrest of Mr. Shepherd for these violations. When Investigator Addington asked Sergeant Brock and Investigator Bridges about their observations of any criminal conduct on September 10, 2009, they declined to answer questions and referred to the police reports filed regarding this incident. The incident report is silent as to any criminal conduct by Mr. Shepherd. The citation indicates that the date of the offense was September 10, 2009. Mr. Shepherd was not working on that evening and this is confirmed by Officer Condon’s statement. Thus, the arrest of Mr. Shepherd was not based on reliable information.

C. STAFF RECOMMENDATION
The ACRB staff recommended that the allegation of False Arrest be sustained as to Sergeant Brock and Investigator Bridges.

Discussion:

**Kirschenbaum** noted that the bases for the investigation was illicit sexual activity not permit violation; however, he also stated, “There are some facts which do arguably support the proposition that there was activity going on at the Eagle Bar that could arguably fall within the definition of the Eagle Bar being an Adult Entertainment establishment. Two lawyers in a courtroom could easily argue this as to whether or not Eagle Bar fell within that definition based on the activities that were going on there that were arguably known to the owner of that establishment.”

**Edmond** stated the police was looking at the ordinance that indicates that they can arrest employees. “Although he is off from work, he is an employee. Since employees are included in the Ordinance, we have to consider would it be reasonable for an Officer to view this information, after Mr. Shepherd identified himself as an employee, as someone that would then fall under the ruling of this particular ordinance. Policemen are not lawyers, and whether he was working or not that night, Shepherd admitted to being an employee which may not have been as easily distinguishable for the police.”

**Johnson** stated that she could see **Edmond**’s point. “It is not cut and dry or an easy black and white issue in this particular case. At first glance, you immediately think this is wrong, but when you look at the language of the Ordinance, you have to stepped back and think if there was a reason for them to do what they did.”

**Edmond** said, “In the context of a mass raid, unfortunately, there is not going to be the attention to detail given to individual suspects. From a practical perspective whether or not there is probable cause to arrest Mr. Shepherd, is questionable.”

The **Chair** reiterated that officers showed up at the complainant’s upstairs apartment—not the bar. He was asked to accompany them downstairs to the bar. He did go with them downstairs. He observed customers lying face down on the floor. He asked to go back up to get his wallet and keys. He was permitted to go back upstairs to his apartment but when he returned to the bar and went to the parking to leave, he was handcuffed, placed in a wagon and taken to jail.

**Kirschenbaum** stated there is a Fourth Amendment issue in this case. He said, “Shepherd was sitting in his home, watching TV and two policemen come to his door and say ‘you have to exit your home and come with us.’ The Fourth Amendment, you think, would have protected Shepherd from this unusual seizure of his body from his home when all he was doing was sitting in his own home watching TV. I think there is more information out there for us to explore. I don’t see the harm in getting more relative material. With the Board’s new found subpoena power, police have to cooperate and provide more information. Another option is to consider having our first hearing, because this is the first of 14 complaints. We don’t have to rush to judgment, we have time.”
Morris stated that Kirschenbaum proposition will probably happen over the investigation of the remaining cases. “But tonight, I think it is time to move on and vote on this particular case.”

The discussion continued...sometime later, the Chair entertained a vote to accept the staff’s recommendation. Morris moved to accept the staff’s recommendation. Kirschenbaum seconded. Motion was carried with one ‘No’ vote (Johnson).

D. DISCIPLINE RECOMMENDATION

After the vote was adopted, Chair Morrissey turned the discussion to recommending discipline.

1. Recommendation regarding Officer B.E. Bridges:

   It was moved by Edmond to recommend a letter of reprimand be placed in the file of Officer Bridges.

   Motion seconded by Johnson.

   Discussion:

   Kirschenbaum agreed there were things on the officer’s record that was really bad, but they had occurred 17 to 19 years ago and not relative to this issue.

   Morris stated that he was also in favor of a letter of reprimand. For the record, he said, “By the time this all plays out, there will probably be more serious charges.”

   Morrissey stated that she did not agree with the letter of reprimand. “It is the least because there is every reason to believe that there is a lot more to this.”

   With no further discussion, the motion was approved.

2. Recommendation regarding Officer John Brock:

   Discussion:

   Edmond stated that he would recommend a one-day suspension because Brock was the supervisor.

   Investigator Addington confirmed that Brock was the ranking supervisor.

   Kirschenbaum indicated that he was more concern about who made the decision...the institutional action, not so much the individual action.” However, he agrees with the three day suspension because Brock was one of the organizers and bears more responsibility.

   Beamud stated the penalty for supervisors is the same as non-supervision...maximum being three days suspension.
Chair Morrissey also indicated that she would favor a three day suspension. “He is a supervisor and he went along with the others. He knowingly supervised and knowingly allowed the offense and failed to supervise.”

Morris moved to recommend a three day suspension. Kirschenbaum seconded. No further discussion. The motion was approved.

PUBLIC COMMENTS:

Chair Morrissey opened the floor for public comments.

There was one speaker, Ms. Lyma Adunue. Ms. Adunue expressed concern regarding the raid at the Eagle Bar and she asked for more information regarding the function of ACRB. She will follow-up with the Executive Director following the meeting.

The Chair thanked her for comments and for attending.

ADJOURNMENT:

The Chair entertained a motion to adjourn. Morris moved to adjourn and Edmond seconded. Motion approved. Meeting adjourned at 9:05 p.m.

Approved as to form and content.

Charis Johnson
Board Secretary

[Signature]