

CLEVELAND COMMUNITY POLICE COMMISSION (CPC)
MICHAEL ZONE RECREATION CENTER
MEETING MINUTES
SEPTEMBER 22, 2016

ATTENDEES: Commissioners: Kathleen Clegg, Mario Clopton, Yvonne Conner, Dylan Sellers, Rhonda Williams

Staff: Katie Brennan, Cleveland Foundation; Deidra Gill, Community Relations Board; Sylvia Pérez, Cleveland Foundation

EXCUSED ABSENCES: Lee Fisher, Lynn Hampton, Deidre Jones, Amanda King

Mr. Clopton called the meeting to order at 5:40 pm.

OVERVIEW OF MEETING AGENDA

Mr. Clopton reviewed the evening's agenda and meeting structure and flow.

CO-CHAIRS REPORT

Use of Force Community Forums:

Dr. Williams reviewed the Thursday 9/15/16 and Tuesday 9/20/16 community forums, at which the community discussed the use of force GPO final drafts. These meetings were held by the Monitoring Team, the City, the CDP, and the CPC to obtain community feedback on the GPOs. The final feedback from the CPC is due the week of October 3rd.

CPC-CWRU Law Clinic: Use of Force Work Project UPDATE:

Dr. Williams announced that the CWRU law clinic is working on a use of force comparative document, analyzing how CPC recommendations appear in the draft GPOs. When they complete this comparison, which should occur by Monday 9/26/16, they will send the results to the CPC. The Commission is also adding the Schubert Center for Childhood Studies' recommendations as an addendum. The Schubert Center's comments have been shared with the Monitoring Team and the CPC.

Annual Report UPDATE:

Mr. Clopton noted that the annual report is in its initial stages of creation. Commissioners were assigned to various sections of the report, which is updated on a shared GoogleDoc. These sections include:

- Holding Meetings to Discuss the Monitor's Report
- Holding Meetings to Receive Community Feedback Concerning the CDP's Compliance with the Settlement Agreement
- Surveys
- Recommendations for Improvement
- Summary of Geographical Differences in Public Comments. The last section will be taken from meeting minutes and an understanding of where the meetings were held. Most of the City has been covered at this point, with all but two political wards visited, and those two wards' citizens attended nearby meetings.

CPC Meetings UPDATE:

Mr. Clopton provided the dates for the Fall and Winter CPC Meetings. All CPC Full Commission meetings last from 5:30pm-8:30pm; the locations need to be confirmed.

Full Commission Meetings will occur:

- Thursday, October 27th
- Wednesday, November 30th
- Wednesday, December 21st

Policy and Procedure Assessment (PPA) Meetings will be Commissioner only, unless otherwise indicated.

These will be held on:

- Monday, October 3rd
- Monday, November 7th
- Monday, December 5th

Sometime during October or November there will also be a CPC Town Hall.

Any changes to these dates will be reflected on the CPC calendar, on its website: www.clecpo.org.

Additional Updates:

The Cleveland Community Police Commission Selection Panel is in the process of reviewing applications and setting up candidate interviews.

Dr. Williams introduced Katie Brennan, the new Cleveland Foundation Public Service Fellow who will be working with the CPC this year. Ms. Brennan said a few words about herself and expressed her excitement to work with the Commission.

Discussion:

The commissioners inquired whether the Annual Report GoogleDoc was open for submissions by Commissioners. Mr. Clopton informed them that it was.

Dr. Williams notified the Commission that under the Sunshine Law, it has been confirmed that the PPA committee meetings are allowed to be private, commissioner-only meetings. She reminded everyone that full Commission meetings, forums, work group meetings, and town halls are open to the public. All formal voting occurs during full Commission meetings and through e-votes. There will only be one full Commission meeting per month, through December.

UPDATES FROM COMMISSIONER REPRESENTATIVES

Community Relations Board:

There was no update from the CPC liaisons for the Community Relations Board: Commissioners Rev. Conner did not attend the CRB meeting and Mr. Body was not in attendance at the CPC Full Commission meeting in order to respond.

2016 AND 2017 BUDGET REVIEW

Ms. Pérez reviewed a handout about the 2017 budget, emphasizing the following points:

- For 2016, the approved budget was \$755,210.00. This covered: five staff positions; professional services; office space; printing, office supplies, technology, hardware and software for staff; local mileage and conference-related travel reimbursements; and meeting costs.
- To date, spending has been minimal. This is in part due to Commissioners use of in-kind resources. The YTD spending in 2016 was \$9,724.28.
- There are encumbered expenses for the coming year, estimated at \$72,300.00. This includes: costs related to hiring searches; an Organizational Development consultant; a new website platform and design support; a e-newsletters subscription which Ms. Brennan will be creating; renewing the Google Corporate Account; and accounts payables for outstanding contract payments.

Ms. Pérez asked for ideas or suggestions for any new items that should be included in the 2017 request, noting that there were no plans to increase the budget. Any additions would result in the reduction of the Professional Services budget. The Budget, IT, and Infrastructure Committee recommended adding the following:

- Technology reimbursements, up to 10% of Commissioners' personal data.
- Shared tablets for Commissioners (current and future) to bridge the digital divide (for those who do not have access to a tablet or computer) and to cut down on paper costs.
- Portable Wi-Fi.

Ms. Pérez informed the Commission that before they submit a draft budget to the City, they can submit questions. All the questions from the Budget, IT, and Infrastructure committee are listed on the PowerPoint. She then opened this to the Commission for input. A commissioner commented that the first question was important. Ms. Pérez said that this has already been addressed and she would share the answer with the Commission soon.

Ms. Pérez shared budget deadlines with the Commission:

- Friday, September 23rd: budget questions must be submitted to the City Finance Department.
- Friday, September 30th: the final draft of the budget must be submitted to the Finance Department.
- First week in October: budget review meeting with the Monitoring Team.
- Mid-October: any final changes must be submitted to the budget. This will be the last opportunity for changes.
- November: a temporary budget (including the City's budget) will be presented to City Council to be approved. The CPC will receive 20% of its request for January-April.
- February 2017: the final budget recommendations will be submitted.
- April 2017: the final budget will be approved.
- Reimbursement requests for printing, parking, and mileage (preapproved in 2016 budget) must be submitted by October 30th.

Discussion:

Commissioners did not have any suggestions for the 2017 budget. They commented that tablets, recommended by the Budget, IT and Infrastructure Committee, might be a good idea for the future; they agreed that there should not be any hindrance for community members on the Commission to do their work.

A question was raised regarding cell phone reimbursements. Ms. Pérez stated that these are only for staff, not commissioners.

A commissioner raised a question regarding renting space and whether it was possible to have an office by the end of the year, stating that the Commission does not necessarily need staff members in order to have an office. Ms. Pérez replied that up to this point, it has been a capacity issue on the operational side. With Ms. Brennan on board, the Commission might have more capacity to explore office locations, but probably not before 2017.

A commissioner asked if the unused money from the 2016 budget would be lost at the end of the year and Ms. Pérez replied that yes, the money does not carry over. Another commissioner noted that the CPC should be prepared to explain to the City why it needs a large budget for 2017 when it did not use most of it in 2016. A co-chair shared that this issue had already been discussed and the co-chairs are prepared to do this.

DISCUSSION: UPDATING CPC BY-LAWS

Mr. Clopton reviewed a handout summarizing areas of the by-laws that were to be discussed. The goal of these potential revisions was to produce the most effective and efficient work process possible for the CPC. Proposed updates include:

- Process for removal of commissioners/appeal: the CPC does not have a structure to remove commissioners, but it is possible to create a structure to recommend the removal of commissioners for attendance issues, etc.
- Attendance policies: the CPC needs to clarify what excused and non-excused absences are.
- Expectations of commissioners: this covers what commissioners expect of each other and how they construct their business. Public voting has been difficult because 10 of 13 members must be present for decision-making. This does not often happen, so e-votes become necessary (voting in public is more ideal).
- Research on absenteeism: in order to hold each other accountable, commissioners need to understand the absenteeism policy. The commissioner position is voluntary, but this is a commitment CPC swore to, so if commissioners are not actively part of the process, the Commission is suffering by not having everyone present and all groups not being sufficiently represented.

Removal Language and Appeal Process (currently no language)

The following language was proposed regarding the removal of commissioners: commissioners may be recommended for removal due to absence. If the majority of the co-chairs (assuming three co-chairs) vote for removal, it will be brought to the Commission. The accused commissioner will have seven days to provide a written response, and the Commission will vote on the proposed removal at the next full Commission meeting. If three-quarters of commissioners vote for removal, it will be brought to the City and DOJ to take into consideration.

In order to appeal, the accused commissioner must appeal in writing to the co-chairs within three weeks of the date of notice. If the commissioner appeals but has another unexcused absence, the co-chairs will request the commissioner's removal. This was written in the October 2015 version of the by-law drafts, but not the December 2015 version.

The December 2015 version contains an additional section regarding chairs addressing concerns about the commissioner. The co-chairs recognize that life is busy, but in their discussion of these recommendations, they emphasized that there needs to be some onus on the responsibilities to which they swore.

Article IV: Attendance

All commissioners are responsible for attending all meetings of the CPC. Current by-laws hold that they must notify staff or the co-chairs prior to the meeting or immediately afterwards. If they anticipate an extended absence (one month or more), they must notify the co-chairs.

The proposed December version of the by-law language added religious and cultural events as reasons for an excused absence, but these were not included in the final version. Regular jobs/responsibilities are not excused as prolonged absences—in discussion, co-chairs emphasized that commissioners need to learn how to prioritize their career with this volunteer work. Some officers are technically on duty when they are at CPC meetings and could be called to action. In the future, the CPC may check if it is possible to get approval from the City so that the CDP officers can count attending the meetings as being on duty.

Article I: Commissioners CURRENT LANGUAGE

The current language in the by-laws (which were available in the handout) list expectations for commissioners, their attendance, and their actions. The seventh and final expectation (Respond to Cleveland CPC communications in a timely manner) was explained by co-chairs in further depth with new proposed details regarding emails. It was proposed that commissioners should respond to CPC communications as quickly as possible, especially over email. Maybe the Commission should start using read receipts in their emails as good practice.

Commissioner Vacancies:

The vacancy process as outlined in the Consent Decree (paragraph 16) does not work effectively and the co-chairs suggested that the Commission needs to figure out as a group how to work within these parameters or talk to the City and DOJ to find an effective way to fill these vacancies. It was suggested by the co-chairs that some flexibility was necessary in managing that process. This needs to be looked at and discussed between the Commission and the community.

Quorum:

A quorum is defined as $50\% + 1$. The current by-law holds that ten out of the thirteen commissioners must be present to be considered a quorum. This is roughly 75% of the full commission. When this decision was made, it was selected so three or four people were not making all the decisions. The new proposed by-law language suggested that a quorum should be comprised of fewer commissioners: $50\% + 1$ for odd-numbered Commissions (e.g. 11 commissioners: 6 for quorum) and 50% for even-numbered commissions (e.g. 12 commissioners: 6 for quorum).

Definitions (currently no language)

No recommendations were presented, but the following ideas were discussed.

Excused and unexcused absences: Co-chairs explained that this new language needs to be edited, but excused and unexcused absences must be defined. This is a volunteer position, so there are no salary benefits of being at meetings, but decision-making is important to work. It was suggested that voting

status can be leveraged so members are present at meetings or at least checking in and having excused absences.

Voting status (voting member status vs. non-voting member status): It was recommended that commissioners need to attend a number of meetings before being able to vote in a meeting. For example, in order to vote in October, commissioners must have attended or have excused absences for two of the past four meetings. Abstentions on voting often come because people were not at meetings so they did not think they had enough to say about issue.

Commission standing: This is about how many meetings commissioners are attending in a macro sense (e.g. a member has to attend 75% of meetings overall or could not have been unexcused for 25% of meetings).

A tiered system of unexcused absences was addressed as well as consequences for unexcused absences.

Commissioner Standing

Definitions for full standing, limited standing, and novice standing are listed on the handout. Novice standing refers to new commissioners and their initial rights to engage in a vote on something they might not have been privy to. The underlying question at hand for “novice standing” is whether or not new members should have a probationary period or start voting immediately.

The Monitoring Team offered to look at the CPC’s by-laws and the DOJ asked to see them. They have not heard feedback from DOJ yet, but have received early feedback from the Monitoring Team about what issues to clarify in the CPC’s by-laws. Such feedback (found in the handout) includes:

- 1) The process for removal if a commissioner fails to meet expectations (or statement identifying the mechanism for removal even if it vests with some body outside of the CPC);
- 2) The selection and appointment of Commissioners beyond the first 4 year term (can someone serve more than 1 term?);
- 3) Need to identify each standing committees and their function;
- 4) Assuming you intend to require 3 co-chairs, the bylaws should likely speak to the replacement of co-chairs;
- 5) Reconciling the inconsistency between the policy on speaking with the media (which seems perfectly reasonable to us) and the language requiring Committee and Work Group chairs to obtain permission from the co-chairs (seems more stringent than the general media policy found in Article VIII);
- 6) Why such a high number for quorum (10 is a super majority and with 2 vacancies that leaves room for only 1 person to be absent); and,
- 7) A general statement about the importance of due diligence and engagement on matters prior to casting a vote could prove useful.

Discussion:

Some of these by-laws are about issues that were discussed and fought for early on last year. Highlights from the CPC’s discussion included:

- *Removal Language and Appeal Process:*

Removal and Appeal: The commissioners discussed the removal and appeal process, acknowledging that under the Consent Decree, removal is ultimately the mayor’s decision, but

the Commission should have an avenue to address their concerns. Commissioners noted that the replacement process is different for civilian and police commissioners, so the removal may be as well. Whether this removal process would be done in a private executive meeting or by staff rather than in public was also discussed.

- *Article IV: Attendance:*

Attendance: Commissioners disagreed about whether attendance should be self-monitored or recorded on a weighted basis. Some commissioners suggested adjusting the by-laws to contain the level of detail found in the 10/28/15 and 12/16/15 unpublished by-law drafts.

Commissioners reiterated the point around the attendance system needing to take into consideration chronic absences or scheduling being modified if chronic absences are a significant problem. Current attendance records/approaches include: a Google folder containing full Commission attendance, the Annual Report, and multiple emails/reminders/communications to Commissioners about meetings. Co-chairs acknowledged that there could be formatting changes in this approach.

Weighted status of meetings: A commissioner suggested weighted meetings because certain meetings should be prioritized to be realistic about time commitments. Currently, commissioners need to sign up for at least one Work Group and one committee and they have a responsibility to be at the ones they signed up for. Commissioners agreed with this concept, but noted the system would need to be clarified further, taking into account that some commissioners are very active without attending many meetings.

Commissioner input: A commissioner suggested that the different ways other commissioners participate if they do not attend meetings should be noted so that everyone is aware of how much the others are participating. The co-chairs agreed that they can make this better known to commissioners. They will need to have more detailed notes of Work Group meetings, committee meetings, and PPA meetings' attendance to see who has missed meetings and who has come to meetings they weren't even required to go to.

- *Article I: Commissioners:*

Article I: Commissioners like the listed expectations, especially the proposed idea of a read receipt for emails connected to #7 (Respond to Cleveland CPC communications in a timely manner).

Expectation of commissioners: The commissioners determined that this does not necessarily have to be part of the by-laws, but it could be part of the policies and procedures of the Commission. (This is also the case for things such as commenting on minutes.) One commissioner stated that the current language needs to be amplified in terms of expectations. For example, each commissioner is required to be on at least one committee and one Work Group, but there should be an expectation of picking up other work when a commissioner's Work Group is done and some commissioners need to add additional committees in order to share work further. Further, if a commissioner misses a meeting, they should be required to comment on the meeting notes or it will be considered an unexcused absence. This can be done in a reasonable amount of time so input is there even in cases of illness, but members are still participating.

Commissioner vacancies: The CPC needs to figure out what to do in this regard. They can draft a letter to the Monitor and parties saying that the current approach is not working for the CPC and request a meeting to discuss what could work differently. The initial conversation would likely be welcomed.

Voting status and quorum: A question was raised whether voting status will affect the quorum. The commissioner liked the idea of voting status, but it was unclear whether a quorum would be established based on the number of commissioners present or the number of eligible voters present at a meeting. Seattle is a good model to look at when considering attendance and voting. A commissioner recommended flexibility for excused absences, but reiterated that members have to have the responsibility to get their absences excused.

- *Definitions:*

Excused and unexcused absences:

Absence: Commissioners agreed that the language proposed is good. Commissioners noted that the CPC needs to look at not just the by-laws around excused/unexcused absences, but also the processes and how these can be implemented and commissioners can be held accountable.

Work as an excuse: This is not under the category of excused absences, but there are some work-related conflicts that cannot be avoided. A commissioner suggested that when the commissioners get notes and if they miss meetings consistently (for example, this commissioner can never go to Wednesday night meetings due to a work commitment), they must comment on the notes, so there is another way for commissioners to be held accountable for their work. These comments can be shared in the final minutes after they are submitted.

Voting status:

Voting privilege: Commissioners discussed whether meeting attendance should affect voting status. Overall, commissioners believed members should stay involved, even if they cannot attend meetings, in order to keep up their voting status. Other commissioners believed that no commissioners should be denied full standing. This is important when considering the quorum.

- *Commissioner Standing:*

Standing: A commissioner argued that this was already addressed by the voting issue, so the CPC probably does not need an extra layer of assigning standing to commissioners.

Novice standing: The commissioners did not like the idea of novice standing. They argued that new commissioners should be able to hit the ground running and should be part of the process from the beginning rather than having a probation period. They have skills and experiences that they bring to the commission, so they should have a say immediately.

- *Monitor Feedback:*

The commissioners thought the Monitor feedback was very useful.

The commissioners thought that #4 in the Monitor's feedback (regarding number of co-chairs) needed to be addressed. Currently, according to the by-laws, the Commission needs to have three co-chairs, but there have been off the record conversations about keeping just two

instead of going back to three. The co-chairs' terms are up at the end of the calendar year. A commissioner questioned whether there was something in the by-laws about how to move forward with that process.

Follow-up:

Commissioners will continue the discussion of possible revision to the by-laws at the next meeting. It was suggested that they focus the next conversation on Articles I, IV, the quorum, and the selection process.

Rev. Conner will draft a list of things that will not be in the by-laws but will still be addressed in the policy and procedures manual.

According to the by-laws, co-chair elections must be held by October 31st. Whether there are two or three co-chairs is an issue that needs to be decided in advance of the election. Although it is not ideal, the election could be conducted by e-vote. It will be the same process as last time and Ms. Pérez and Ms. Brennan will put a schedule together. The commissioners then discussed the voting process, including the highlighted points below:

- A commissioner suggested the two vs. three issue be discussed at the PPA meeting and then an e-vote should be taken.
- A commissioner opined that the co-chair elections should be held at a public meeting, which should include an executive session.
- Another commissioner said there should not be an e-vote out of a PPA. The call for a vote should be after this Full Commission meeting (9/22) when it has been discussed in front of the public and aligns more with what was done in the past.
- Last time co-chairs were elected, it was a written ballot. There may still be a ballot vote, even if it is done in public.
- Another commissioner suggested having an executive session before and then voting in the full Commission meeting.

BREAK-OUT GROUPS: USE OF FORCE COMMUNITY INPUT

The public split into small groups for 15 minutes to discuss the draft use of force policies.

Report out:

Group 1

- A couple people in the group were at both use of force meetings. They heard that 90% of people want to have officers held more accountable for their actions.
- Use of force policies should include a requirement for verbal de-escalation and the tightening of language for specific incidents so it's mandatory for officers that are coming up to unarmed individuals to just talk.
- Police need to end their use of intimidation, putting hands on guns, sexual harassment or intimidation, etc.
- When force is clearly used, there should be an independent police review. The reporting system should speak to citizen complaints instead of just police statements.
- There should be a mandatory hierarchy of how weapons are used so police know which level of weaponry is required for each situation.
- Parts of the policies about chokeholds need to be defined as NO chokeholds.
- Humanity should come first—this is not a war zone.

Group 2

- The reality of where collective bargaining agreements lie in their authority to override provisions in new GPOs is disturbing.
- Moving forward, the CBA and arbitration process may make a lot of this void. They need to be clear about this.
- There are no accountability measures in the current work. Accountability GPOs will be discussed, but there should be accountability built into the use of force policies.

Group 3

- In policies which explain when officers are allowed to use force, there need to be clearer definitions of “objectively reasonable,” “proportional,” and “necessary.”
- There should be no loopholes to de-escalation. There should always be de-escalation.
- De-escalation should be proportional—this should be written in a GPO.
- Officers should be the thermostat, not the thermometers of a situation. When an officer approaches a scene, he/she is discerning the mental health and emotional state of the person—policing is reactionary—and officers need to take these qualities into consideration and try to bring people down emotionally, not match their level.
- Anger management programs for police officers should be established.

BREAK-OUT GROUPS: CPC TOWN HALLS

Rev. Conner explained that town halls are ways to educate the CPC and the community. When looking at use of force, we've learned that there are special tactical forces under the CDP that enact GPOs in different ways. We want more clarity over what a specific unit might do. In the October/November town hall, we want to ask a tactical unit to talk to us. These possible units include:

- Gang unit
- SWAT
- DEA
- Federal investigation team

Commissioner Discussion:

Commissioners noted that the CPC has not received a complete list of the units that fit under this category. The Town Hall can only focus on a few units, but Mr. Clopton and Dr. Williams asked Carol Rendon to talk to the group about multiple units, but whether she participates depends on her availability. Deputy Chief O'Neill and/or Chief Williams might be able to come, but this will depend on availability.

Community Recommendations:

The community suggested that the CPC see which units are most active in Cleveland and making sure to hear from those at a higher rate. They also requested that the CPC get officers in the command structure because these are the people ordering other officers. The community also expressed interest in getting a dispatcher to talk to the Town Hall.

Suggestion for future town hall (January): Look at how the collective bargaining agreement/union works with what the CPC is doing to see how the Commission will move forward.

A community member suggested that Town Halls be used as a way to educate the public on use of force policies. They suggested that policies should be written clearly, in a way that all members of the community can access them. Another suggestion was made that the policies should be read and discussed in different forums so the community members can engage and ensure that the communication of the information is accessible to all audiences.

Community Comments/Discussion:

Members of the public commented on the Town Hall as well as other topics discussed during the meeting such as officer behaviors and use of force policies. Their discussions are noted below:

Town Hall:

- A community member questioned why the Town Hall would meet with SWAT or similar groups and why they needed to know how these worked. In response, the Commission stated that there are certain units that are not required to act along the existing GPOs. Further, the purpose of this Town Hall is to see what the policies will look like on the ground, which will help the CPC's work of looking at community values and issues.

Officer Behaviors:

- A community member thought officers should do the same thing in inner-city Cleveland as they do in Bay Village, Avon Lake, or other suburbs. A participant stated: Gangs do not only exist in black, inner-city communities. The process by which officers come into our neighborhood is different than they do in other areas. There needs to be a mental training surrounding this.
- The public wanted to know the reasoning behind officers' actions and why they decide to police certain communities.

Use of Force/Training:

- New use of force policies should address training: kinds of training, length of training, how often it is renewed for officers, etc.
 - o There will be extensive training before the end of the year around use of force.
 - o Bias-free training should be part of this.
- The new use of force policy needs to be practiced, not just read.
- When it comes to use of force requirements, officers should have more education and more training in what is legal and what officers' vs. citizens' rights are. Officers sometimes pass on false information on citizens' rights.
- Citizens want to know about anger management training.
- Officers can have all the training in the world, but if they do not want to implement it, it does not matter. They can still snap. They need to care about the training when they arrive at the scene. How do you mandate compassion?
- Another officer has an obligation to intervene if he or she sees an officer getting out of control.
- Is the City of Cleveland setting aside a budget for the training of new officers and officers already on the police force? What if the City falls on hard times? What guarantee, if any, will the City provide for ongoing training? Training is the key for implementing the new policies and procedures.

PUBLIC COMMENT PERIOD

The meeting was cut short due to a scheduling issue with the venue and there was no time for public comment.

The next full Commission meeting is on October 27th.

The public was asked to write any suggestions for the CPC on the back of the agenda.

The meeting was adjourned at 8:00 pm.