



REQUEST FOR COUNCIL ACTION

City of Greenville, South Carolina

TO: Honorable Mayor and Members of City Council
FROM: John F. McDonough, City Manager

Agenda Item No.

16b

Ordinance/First Reading
 Ordinance/Second & Final Reading
 Resolution/First & Final Reading
 Information Only

AGENDA DATE REQUESTED: August 8, 2022

ORDINANCE/RESOLUTION CAPTION:

RESOLUTION TO APPROVE AMENDMENTS TO THE BYLAWS AND THE STANDARD OPERATING PROCEDURES OF THE PUBLIC SAFETY CITIZEN REVIEW BOARD

SUMMARY BACKGROUND:

The Public Safety Citizen Review Board recently met to amend its Bylaws and Standard Operating Procedures. The PSCRB recommends its Bylaws and Standard Operating Procedures be amended as reflected in the Exhibits to this Resolution. Section 2-333(a)(3) of the Code of Ordinances of the City of Greenville requires that no amendment to the Bylaws filed with the City Clerk shall become effective until the proposed amendment has been prepared and submitted to City Council. In accordance with Section 2-333(a)(2) of the City Code, the City Attorney has reviewed the proposed amendments to the Bylaws and advises City Council the amendments comply with the Ordinance.

IMPACT IF DENIED:

The Public Safety Citizen Review Board Bylaws and Standard Operating Procedures will not be amended.

FINANCIAL IMPACT

None

REQUIRED SIGNATURES

Department Director

DocuSigned by:

Athena M. Miller

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City Attorney

DocuSigned by:

Leigh Paolletti

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OMB Director

City Manager

DocuSigned by:

John F. McDonough

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A RESOLUTION

TO APPROVE AMENDMENTS TO THE BYLAWS AND THE STANDARD OPERATING PROCEDURES OF THE PUBLIC SAFETY CITIZEN REVIEW BOARD

WHEREAS, the Public Safety Citizen Review Board (“PSCRb”) recently met to review its Bylaws and Standard Operating Procedures; and

WHEREAS, the PSCRb recommends its Bylaws and Standard Operating Procedures be amended as described in Exhibits A and B, respectively, attached hereto and incorporated herein by reference; and

WHEREAS, Section 2-333(a)(3) of the Code of Ordinances of the City of Greenville (“City Code”) requires that no amendment to the Bylaws filed with the City Clerk shall become effective until the proposed amendment has been prepared and submitted to City Council; and

WHEREAS, in accordance with Section 2-333(a)(2) of the City Code, the City Attorney has reviewed the proposed amendments to the Bylaws and advises City Council the amendments comply with the Ordinance; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA, the Bylaws and the Standard Operating Procedures of the Public Safety Citizen Review Board are approved as amended in Exhibits A and B to this Resolution, with such amendments shown by strikethrough and underline.

RESOLVED THIS _____ DAY OF _____, 2022.

MAYOR

Attest:

CITY CLERK

EXHIBIT A

**BY-LAWS
OF THE
PUBLIC SAFETY CITIZEN REVIEW BOARD
OF THE CITY OF GREENVILLE, SOUTH CAROLINA**

ARTICLE I - AUTHORITY

These by-laws are promulgated pursuant to Division 6, Public Safety Citizens Review Board, Article III, Officers and Employees, Chapter 2, Administration of the Code of Ordinances of the City of Greenville. In the event of a conflict between these bylaws and the foregoing statutory and code provisions, the latter shall control.

~~These by-laws are promulgated pursuant to City Ordinance 97-6, as amended, "To Provide for Consistent Procedures Among Municipal Boards as to Voting, Attendance, and Other Practices", and pursuant to City Ordinance 2005-44 "To Establish a Public Safety Citizen Review Board and to Discontinue the City Civil Service Commission..." In the event of a conflict between these by-laws and the foregoing code provisions, the latter shall control; and, pursuant to City Ordinance 2017-03 to: 1) change the name of the Commission to the Public Safety Citizen Review Board, 2) increase the membership of the Board from five to seven members, and 3) to "ensure that all citizens have an opportunity to publicly address the Board at each meeting concerning matters within its [Board's] jurisdiction".~~

**ARTICLE II – PURPOSE (~~Division 6, Article III, Chapter 2, Section 2-309; The Code of~~
~~Ordinances of the City of Greenville)~~**

City Council finds that the demands and challenges for ~~uniformed~~ sworn employees serving in the city police and fire departments are different from those of employees serving in other city departments. People engaged in law enforcement and fire suppression are subjected to danger more regularly and with less notice than other people in the work force. Ordinarily, ~~uniformed~~ sworn employees in the police and fire departments require training and certification under state law to perform their duties. They are organized in groups in which mutual support and chain of command are far more integral to the success of their individual responsibilities than is the case for employees in other departments. The characteristics of their organization and the authority vested in the departments can lead to abuses. Some abuses are those which the employees can sustain when the organizational structure and its practices perpetuate or cover inequitable treatment. Some abuses are those that less responsible ~~uniformed~~ sworn employees might inflict

upon members of the public at large under the pretense of exercising their duly vested powers and responsibilities.

In these circumstances there is merit in having independent citizens of good character and good judgment make conclusions after reasonable inquiry about general departmental practices and specific events which are brought to their attention. This division establishes the mechanism by which such inquiries can be made and such conclusions can be reached in a way that protects the public interest and promotes the integrity of the city organization.

City Council further finds citizens will benefit from an independent board that is empowered to consider larger policy issues as they pertain to public safety and to hear specific concerns from the public at large concerning the public safety departments when those concerns are significant enough to warrant scrutiny and independent judgment.

ARTICLE III – MEETINGS

1. Regular, Special, and Quorum

Regular meetings of the Board shall be held no less than quarterly on the third Monday of the month beginning at 5:30 p.m. At each regular meeting, citizens shall be afforded an opportunity to address the board on matters within the board's jurisdiction pursuant to such reasonable rules as the board may adopt to ensure a balance between good order and the rights of citizens to be heard. Special meetings of the Board may be called by the chairperson or by a majority of the Board members upon at least five days' notice in writing to all Board members. Notice may be waived by the attendance of all Board members at the meeting. The notice shall specify all matters to be acted upon at the special meeting. The attendance of at least four Board members is necessary to constitute a quorum for the transaction of any business and no official action may be taken if a quorum is not present. Fewer than a quorum shall have the power to discuss matters without official action and to adjourn from time to time until a quorum can be present. The act of a majority of the Board members present at a duly assembled meeting at which there is a quorum shall be the act of the Public Safety Citizen Review Board. A Board member must be present at a meeting in order to vote.

2. Presiding Officer, Order of Business, Agenda

Each regular or special meeting of the Board shall be presided over by the Chairperson or, in his or her absence, by the Vice Chairperson. In the absence of both the Chair and Vice Chair, the most senior Board member shall preside. At least five days prior to each regular meeting, the Secretary

shall mail to each Board member an agenda setting forth all matters to be transacted at the meeting and the minutes of the previous meeting. For good cause shown, the chairperson may approve a shorter period of time for sending an agenda. Any Board member may direct the placing of items on the agenda. No matter may be acted upon at a regular meeting without the unanimous consent of all Board members present and voting at the meeting unless it is on the agenda. The minutes of the previous meeting shall be approved at the outset of each meeting.

3. Attendance

- A. Any member who, for reasons other than sickness or bona fide emergency, misses three consecutive regular meetings, or thirty ~~thirty~~ ~~percent (30%) (50%)~~ of all meetings within a calendar year, shall be removed from the board. The position shall be declared vacant by the city council, which shall fill the vacancy. Where good cause for the absences is shown, the city council may, in its discretion, reappoint the removed member. Any member, who is unable to attend a meeting, whether regular or special, shall contact the staff liaison as soon as possible so that the staff liaison can determine and report to the chairperson whether a quorum can be established.
- B. The staff liaison shall maintain a record of attendance for each Board member. The staff liaison of the Board shall be responsible for notifying the City Clerk of any members who violate the attendance requirements. The City Clerk shall then provide Council with the details of the violation.

4. Rules of Order

Meetings shall be conducted in an orderly manner to ensure the fair treatment of all persons and issues before the Board. ~~One or more generally recognized publications on procedure shall be available for reference when procedural issues are to be resolved.~~ The most recent edition of Robert's Rules of Order, newly revised, or other comparable procedures, shall govern the Board in its deliberation in cases not otherwise provided for by the statute, this Code, ordinance, rule or regulation.

ARTICLE IV - MEMBERSHIP; OFFICERS

1. Members/Required Training

- ~~A. The Public Safety Citizen Review Board shall consist of seven (7) voting members. These members shall be of good moral character, not less than 30 years of age, and shall possess qualifications and requirements in force with respect to other officers of the City. Members~~

~~shall be and remain residents of the City during their term on the Board. All members shall be appointed by the Mayor and City Council with the advice of the City Manager.~~

The Board shall consist of seven voting members, selected by the city council for staggered terms of office of four years each. Each member must be a person who resides in the city, is at least 21 years of age, and has sound judgment and good moral character. No member shall be the spouse, parent, child, or sibling of any employee of the police department or fire department. The city council shall exercise care in its selection of members to maintain a total membership that is reasonably representative of the city's diverse population.

- B. In addition to the voting members, there shall be one nonvoting participant representative of the ~~uniformed~~ sworn employees from the police department and one nonvoting participant representative of the ~~uniformed~~ sworn employees from the fire department. ~~These participants shall not be in a grade of lieutenant or higher. They will be selected by the City Manager after consultation with the Chiefs of each department and Human Resources Director.~~ Each participant shall be selected by the city manager after consultation with the chief of the affected department and other members of the department as deemed appropriate by the city manager. Each participant shall have at least five continuous years' experience with the department and no participant shall be the grade of lieutenant or higher. Each nonvoting participant shall be authorized to volunteer statements or to answer questions from the board during hearings and deliberations, but nonvoting participants shall not vote on actions taken by the board. Each nonvoting member shall be subject to disciplinary action for violating committee provisions of confidentiality.
- C. As soon as practicable, but in no event later than six months from the date of appointment, each member shall participate in at least one ride-along with a police officer and complete training in the police department's use of force training simulator. As soon as practicable, but in no event later than one year from the date of appointment, each member shall complete the police department's citizen training academy. Failure to complete the foregoing shall result in automatic removal of the member from the board.
- D. Each member shall participate in such periodic training sessions as may be reasonable and appropriate for members of the Board. Such training shall include, but not be limited to, ethics, the South Carolina Freedom of Information Act, basic provisions of parliamentary procedure, and the extent of authority delegated to the Board by city ordinances. As soon as practicable, but in no event later than one year from the date of appointment, each member shall participate in at least one such training session.

2. Officers: Election, Terms, and Removal

The officers of the Board shall consist of a Chairperson and a Vice Chairperson. The Chairperson shall preside over meetings, enforce the orders of the Board, and carry out such other duties as delegated to him or her by the Board. The Vice Chairperson shall preside in the absence of the Chairperson. These officers shall be elected by a majority vote of all Board members at the first meeting of the Board in each calendar year. These officers shall serve for a term of one year. In the event of an officer's death, resignation or removal, a majority of all Board members, shall elect a successor. An officer may be removed from office upon the vote of the remaining six Board members.

3. Secretary / Staff Liaison: Appointment and Duties

The Human Resource Department of the City of Greenville will provide administrative and staff liaison services for the Board. ~~A member of that department,~~ The Human Resources Director or such other person as the City Manager may appoint as staff liaison, shall be designated *Secretary* for the Board. The Secretary shall be the custodian of all records of the Board and shall keep accurate minutes and records of all regular and special meetings of the Board. The Secretary shall further carry out such duties and assignments as may be delegated or directed by the Board such as, but not limited to, setting meetings, preparing agendas, other documents and correspondence, coordinating the acquisition of needed materials, and providing training. The Board, in its discretion, may request a background check of the Secretary in accordance with procedures otherwise permitted by law.

4. Notice and Public Information

- A. The staff liaison of the Board shall be responsible for ensuring compliance with the Freedom of Information Act and for notifying the City Clerk reasonably in advance of all meetings.
- B. The staff liaison is required to comply with guidelines pertaining to matters of public notice and scheduling as provided by the City Clerk.

5. Voting

Each member, including the Chairperson, shall vote and shall not abstain from voting unless such member claims a conflict of interest, in which event the member shall be excused from voting. The member shall then state for the record the basis for the abstention and complete a Statement of Potential Conflict of Interest Form. Voting by proxy shall not be permitted.

6. Ethics

All Board members shall be subject to the provisions of the South Carolina State Ethics Act and the City of Greenville's Code of Ethics.

ARTICLE V. BY-LAWS: ADOPTION, AMENDMENT, FORCE & EFFECT

1. These By-laws shall become effective upon adoption by a majority of the Board members voting at a regular or special meeting, and upon acceptance by City Council. Upon acceptance by City Council, the City Clerk shall file the by-laws in a file maintained for that purpose.
2. These By-laws may be amended by a two-thirds vote of all Board members voting at a regular or special meeting of the Board, provided that five (5) days written notice of the proposed amendment is given to all Board members. All amendments to the By-laws shall be filed with the City Clerk and be prepared and submitted to City Council in accordance with City Council procedure for acceptance by Council resolution.

ARTICLE VI – ESTABLISHMENT OF STANDARD OPERATING PROCEDURES

1. The Board by resolution shall establish such Standard Operating Procedures (SOPs) as it deems necessary to properly exercise its duties and powers under Division 6, Section 2-309 et seq. of the City of Greenville Code of Ordinances. These SOPs shall comply with the relevant City ordinances pertaining to the Board. These procedures shall be designed to promote fairness between all parties involved and shall be set forth in a separate document entitled "*STANDARD OPERATING PROCEDURES*" of the ~~Board on Fire and Police Practices~~ Public Safety Citizen Review Board of the City of Greenville South Carolina. In the event of a conflict between said SOPs and departmental policies, general orders, procedures, or practices, the SOPs shall control.

ARTICLE VII - HEARING PROCEDURES

1. The Board by resolution shall establish hearing procedures which shall comply with the relevant City ordinances pertaining to the Board. These procedures shall be designed to promote fairness between all parties involved and shall be set forth in the Public Safety Citizen Review Board's Standard Operating Procedures.
2. Hearings, and notice thereof, shall be governed by applicable law, including the Freedom of Information Act.

ARTICLE VIII - STAFF REPORTS AND RECOMMENDATIONS

1. As provided in Section 2-333(b) of the Code of Ordinances of the City of Greenville,” the staff liaison shall submit reports and recommendations for those agenda items requiring decisions or recommendations by the Board, or committee. Other staff having experience, education, and professional training in the subject matter may provide input into the reports and recommendations or may provide supplemental ones. The material submitted may be oral, written, or graphic, or some combination of all. The reports and recommendations shall be accepted as evidence of record to the same extent as oral testimony and exhibits accepted from applicants, opponents, persons who are subjects of an inquiry, expert and lay witnesses, and members of the public who provide information for the record of the proceedings.

CERTIFICATE

This is to certify that the foregoing By-laws were adopted by the Public Safety Citizen Review Board on the ___ day of (month), (year) at a regular meeting of the Board, and that they supersede and replace all versions heretofore made or adopted.

Chairperson or Presiding Board Member
Public Safety Citizen Review Board

EXHIBIT B
City of Greenville, South Carolina
Handbook for Boards and Commissions

SECTION TEN

Public Safety Citizen Review Board
STANDARD OPERATING PROCEDURES

**Standard Operating Procedures
Of the Public Safety Citizen Review Board
Of the City of Greenville, South Carolina**

Article I – Authority

These Standard Operating Procedures (SOPs) are promulgated pursuant to City Ordinance 2005-44 and Section 2-309 of the Greenville City Code, the Bylaws of the Public Safety Citizen Review Board of the City of Greenville, SC, and, pursuant to City Ordinance 2017-03 and 2021-02. In the event of a conflict between these Standard Operating Procedures and general orders, procedures or practices, these SOPs shall prevail.

Article II– Purpose

The Public Safety Citizen Review Board will address grievances of ~~uniformed~~ sworn employees in the Fire and Police departments and hear concerns of members of the public about the conduct of firefighters and/or police officers, and/or matters within the Board’s jurisdiction, and make recommendations to City Council and to the City Manager about practices and procedures in effect at the respective departments. The remainder of the SOPs will provide further details on how the Board will accomplish the above purpose and implement Greenville City Code Sections 2-309 through 2-315.

Article III– Complaints

- ~~1. Any City uniformed officer may choose to request a hearing with the Board regarding a grievance in accordance with the City's Human Resource policy. Any person who has a complaint about the conduct or statements of a uniformed employee of the Police and Fire Departments may file a complaint with the Board, provided procedures available in the department have been exhausted without a result satisfactory to the complainant.~~
- ~~2. All formal complaints will continue to be provided to the Board in the regular, agenda package. The Board may initiate an investigation of its own when the majority of the members feel a problem or injustice has occurred, or when the Board is not satisfied with the investigation done by a department.~~
- ~~3. The Board will decide at a regular meeting whether a complaint or grievance warrants further investigation or hearing.~~

(a)

Internal complaints

- (1) Any City sworn employee of the police department or fire department who believes that the policies or practices of that department result in acts of unfairness, or believes that on a single occasion, there has been an especially damaging impact, may file a written statement requesting the board to review those practices, or to address the circumstances of the single event. The sworn employee may, in the alternative, elect to petition through the grievance procedures otherwise applicable to employees in general, but the sworn employee cannot exercise both procedures. The complaint must specify what actions the employee has taken to seek a redress of the grievance internally and should say in what respects the department’s internal procedures have not or will not address the problem.
- (2) The following complaints in ordinary circumstances shall not be addressed to the board:

- a. Annual employee evaluations
 - b. Job assignments.
 - c. Amounts of compensation.
- (3) Notwithstanding the list of exclusions in subsection (a)(2) of this section, such items may be presented to the board for review when there is a compelling reason to do so, and the employee describes succinctly how departmental procedures otherwise in place fail to evaluate properly the employee's circumstances.
- (b) External complaints. Any person who has a complaint about the conduct or statements of a sworn employee of the police department or fire department may initiate a complaint with the department, through the human resources department or directly with the board. All external complaints, regardless of how received, shall first be investigated by the affected department and the complainant shall be informed of the final departmental determination. If the complainant is not satisfied with the determination, he or she may seek further review by the board in accordance with the procedure outlined in this division. All final departmental determinations must inform the complaining person of this opportunity.
 - (c) Monitoring of body worn camera (BWC) compliance. The police department shall provide a list of all complaints, whether internal or external, alleging a sworn officer's failure to follow the department's body worn camera policy.
 - (d) Promotion of the complaint and appeals process. The external complaint and appeals process shall be prominently featured in all public notifications and promotion of the board and its mission, including, but in no way limited to, notification and promotion on the city and police department websites.
 - (e) Periodic reporting to the board. The police and fire departments, in coordination with the human resources department, shall log and track (with a sequential numbering system) all external complaints alleging misconduct or the failure to follow applicable department policy which is lodged against any sworn police officer or firefighter, along with the disposition of each such complaint. A representative of the police and fire departments shall provide a summary report to the board at each regularly scheduled meeting and respond to any reasonable question or concern raised by the board with respect to said complaints. In addition, the board shall have reasonable access to the underlying file materials, subject at all times to the protections of subsection 2-314 (g).
 - (f) Consolidation of complaints and appeals for hearing. A request for review and hearing by the Board of a complaint or appeal shall state as part of the request all complaints by the requesting complainant related to and arising out of the same transaction, occurrence, or incident that is the subject matter of such request. Any such related complaints for which the requesting complainant intends to seek review shall be scheduled for a single joint hearing before the Board.

Article IV– Investigation

1. All formal complaints will continue to be provided to the Board in the regular, agenda package. The Board may initiate an investigation of its own when the majority of the members feel a problem or injustice has occurred, or when the Board is not satisfied with the investigation done by a department.

2. The Board will decide at a regular meeting whether a complaint or grievance warrants further investigation or hearing.
- 4- ~~3.~~ In order to make investigating a complaint or grievance more manageable, one or more Board members including non-voting members can make up a Sub-Board to investigate and report back to the full Board.
- ~~2-~~ 4. The Board and Sub-Board may call upon the Chiefs of either department for appropriate assistance in investigating any complaint.

Article V – Hearing Procedures

The purpose of these rules of procedure is to define the framework within which the Board shall conduct hearings, when there is an appeal by an employee on a disciplinary matter or a policy matter, or when there is a complaint from a member of the public about the conduct of a ~~uniformed~~ sworn fire fighter or police officer, or about other matters within the Board's jurisdiction. The proceeding is not a court trial with its many formalities, including direct and cross examination by contesting parties or their counsel of record. Rather the proceeding is one of the Board accepting information, asking questions, evaluating evidence, and rendering a recommendation to the City Manager, who has authority to accept, reject or modify the Board's recommendation. The proceedings should be orderly but not so rigid in procedures that an ordinary person feels limited in having a full opportunity to present evidence and comment on the evidence presented by any other participant.

1. Hearings.

Hearings with all parties involved present, may be conducted at regular monthly meetings or at special meetings called for this purpose.

A hearing on a complaint or appeal arising out of or relating to a criminal matter pending before the municipal court, magistrates court, or court of general sessions shall not be scheduled for hearing until disposition is entered on the criminal matter. Thereafter, the complainant or appellant shall notify the Staff Liaison of the disposition of the criminal matter. A hearing on the complaint or appeal shall be scheduled within one year of such notice.

A complainant or appellant may request a continuance for a scheduled hearing. If good and sufficient cause for the continuance is shown, the Board chair in his discretion may grant the continuance. If the complainant or appellant does not appear for the scheduled hearing and has not been granted a continuance, the Board may conduct the hearing in the complainant or appellant's absence.

2. Quorum.

A quorum must be present in order for the Board to render a decision on any matter before the Board. If a quorum cannot be present at a regular or special called hearing, after all other participants are present, statements and questions may be recorded and presented at the next regular or special called meeting of the Board.

3. Call to Order and Statement of Proceedings.

The Chair shall call the proceedings to order. The Chair shall state the purpose of the proceedings and the fundamental issues for the Board to address in its questioning, deliberations, and recommendation. Any member of the Board shall correct or refine the formulated issue for clarity's sake. The Staff Liaison/Secretary and the City Attorney may also make such corrections and refinements.

4. Counsel for Participants not Permitted in Hearing.

No right to be represented by counsel is provided to participants during the Board members' questions. Participants may confer fully with counsel in preparation for the hearing and may seek the guidance of counsel after the hearing. Counsel for a participant may submit comments in writing to the City Manager once the Board has made a recommendation for the City Manager's decision.

5. Record of Proceedings.

An audio tape shall be kept of all proceedings, except for the Board's deliberations. When no audio tape is available, the Board Secretary shall keep notes of the proceedings.

6. Respect.

Members of the Board shall show respect to all persons appearing before it. All persons appearing before the Board shall show respect to the Board. Failure to abide by this rule is a basis for being removed from the room by the Chair or a majority of the Board.

7. Sworn Testimony.

All participants who testify or make statements shall take the following oath: "I swear [or affirm] that what I say is the truth, the whole truth, and nothing but the truth."

8. Setting Time Limits.

The Board shall set time limits for presentations from participants. The time limit allotted to the complainant shall be 10 minutes for all of its witnesses to appear. The City representative shall be allotted the same amount of time. The Board may make other types of time limits, provided they are fair and sufficient for the character of the controversy. The Board Chair may grant additional time if needed by either party to present further, relevant information.

9. Stipulation of Submitted Material.

The Chair shall identify, at the commencement of the hearing, with reasonable specificity, such written documents, photographs, drawings, tapes, and similar material as has been submitted prior to the hearing and make inquiry as to whether all participants have been provided the material or had reasonable access to it. The material may include items prepared by or submitted by the Staff Liaison, the department head, the employee, a complaining member of the public, or other interested party. The Board has the discretion to reject from its consideration items that are clearly not relevant to the proceedings.

Parties must provide material proposed for pre-hearing submission to the Board to the Staff Liaison no fewer than thirty (30) days prior to the scheduled hearing in order to have such material included in the pre-hearing packet of material provided to the Board. Any material proposed to be submitted fewer than thirty (30) days prior to the scheduled hearing must be submitted in accordance with Section 10 below.

10. Receipt of Testimony and Additional Items.

At the hearing, the Board may accept testimony and additional items from any participant. Demonstrative exhibits summarizing the content of oral testimony, statistical data, or other information may be accepted from any participant.

Board members shall refrain from initiating, permitting, or considering a communication made to the Board member outside a public meeting, hearing, or the presence of the parties about the subject matter of a pending hearing, except that nothing herein shall be construed as prohibiting (1) receipt or consideration of the submitted material described in Section 9 herein, (2) communication with the Staff Liaison or her designee, or (3) communication with the City Attorney.

11. Questioning Limited to Board Members.

Upon being recognized by the Chair, any Board member may ask a question of a participant who is testifying. If needed for clarification or accuracy, a Board member may ask questions of other participants in the room who are not in the process of testifying, provided that such person has been administered an oath as provided in Section 7, above. Participants in the proceeding may not ask Board members questions, except in the case of seeking clarification on a Board member's question. Participants may not cross-examine one another.

~~10.~~ 12. Relevant Material, Credible Evidence.

Not all evidence presented by participants must be accepted into the record by the Board. Evidence must be relevant in that it must pertain to the issues in dispute. Evidence must be pertinent in that the evidence must be able to affect the outcome. Evidence must be credible in that there is a basis for concluding that it may be true and accurate. While the Board reserves the right to not accept into the record evidence that is clearly not relevant, material, or credible, nevertheless, the Board in good faith shall accept evidence presented by participants unless there is a clear and convincing indication that the proffered evidence can not meet the required criteria. The Board shall base its determinations on relevant, material, and credible evidence. The Board may exclude evidence that is unduly duplicative of matters already established or clearly goes beyond the boundaries of issues before the Board.

~~12.~~ 13. Witnesses.

The Board shall reserve the right to hear additional testimony from witnesses who possess relevant information on the matter at hand.

~~13.~~ 14. Deliberations without Participants.

When all presentations are compiled and all testimony has been heard in accordance with these rules, the Board shall require all persons to depart the room during the Board's deliberations except for the Board, the Staff Liaison/Secretary and the City Attorney representative; and, at the Board's discretion, non-voting members to aid the Board members in their deliberations.

~~14.~~ 15. Recommendations Based on Evidence.

The recommendations of the Board shall be based on the evidence of record. No extraneous statements, documents, photographs, or the like which are not in the record shall be considered. In the case of employment decisions arising in either of the two departments, the Board recommendation shall be to uphold or to not uphold the City staff's decision. If the Board deems it appropriate, the Board may make further recommendations to the City Manager for his/her consideration.

~~15.~~ 16. Vote in Open Session.

All votes, including votes on recommendations, shall be taken in open session. The basis for the recommendation shall also be stated in open session. The vote must be a majority of those present and qualified to vote.

~~16.~~ 17. Written Report of Findings and Recommendation.

Upon conclusion of the hearing, the designated Staff Liaison/Secretary or City Attorney shall prepare a written Report of Findings and Recommendations and submit it confidentially to the Board members presiding at the time of the hearing and deliberations. There shall be no substantive deviation from the vote taken and reasons stated in open session.

~~17.~~ 18. Delivery to City Manager and Primary Participants.

Upon the execution of the written Report of Findings and Recommendations by the Board Chairperson and/or the presiding Board member present for the hearing, the Staff Liaison/Secretary or City Attorney shall sign the Report of Findings and Recommendations and submit it to the City Manager on behalf

of the Board. Upon obtaining the City Manager's final, written decision, the Staff Liaison and Secretary will so inform the Board members, and will forward a copy of the decision and the Report of Findings and Recommendations to the respective department chief, to any fire fighter or police officer who is the subject of the decision, either as an appealing employee or as the result of a complaint from a citizen, and to any citizen who was the person who brought the matter to the Board for decision. The Report of Findings and Recommendations and a copy of the City Manager's decision and any correspondence to a complaining citizen will be included in the next Board meeting packet.

~~18.~~ 19. Receipt of Information.

The Board in its discretion may receive written comments and oral testimony from any member of the public who has a general criticism of a particular person or process within the Fire or Police Departments. The complaining person must demonstrate that the complaint has previously been presented to the affected department and indicate to the Board in what respect the departmental response was not satisfactory. This process may include circumstances in which the complainant is not asking for a specific correction or disciplinary action but requests to have the matter listened to by the Board. The Board is free to ask questions and hear from additional persons. All persons giving testimony must take the oath provided in Section 7. The Board must then deliberate as otherwise provided in these procedures and return to open session to vote on any statement that may be appropriate. The Board then has the discretion to make or not make a recommendation to the City Manager. A copy of the statement or recommendation shall be transmitted to the complaining party.

Certificate

This is to certify that the foregoing Standard Operating Procedures were adopted by the Board on the ~~17th Day of April, 2017~~ 18th Day of July, 2022 at its meeting in open session, and that they supersede and replace all versions theretofore made or adopted.

Chairperson

Public Safety Citizen Review Board