

**MINUTES
CITY OF FORT MYERS
CITIZENS POLICE REVIEW BOARD
March 10, 2020**

The Citizens Police Review Board of the City of Fort Myers, Florida, met in regular session at Oscar M. Corbin, Jr. City Hall, 2200 Second Street, its regular meeting place in Fort Myers, Florida, on Tuesday, March 10, 2020, at 5:30 p.m. Present were presiding Robert W. Votaw, Jr., Chair, Erma Boyd-Dorsey, Vice Chair, Forrest H. Banks, Danielle L. O'Halloran, Esquire, Michele Parker and Shawn T. Walker, Board Members. Also present were Grant W. Alley, City Attorney, Gwen Carlisle, MMC, City Clerk, Board Administrator and Wendy White, Recording Specialist. Absent: None.

Chair Votaw led the Pledge of Allegiance to the Flag of the United States of America.

PUBLIC INPUT

None

OLD BUSINESS

None

NEW BUSINESS/APPEARANCES

Major William Newhouse introduced the Police Officers in attendance and announced changes in his investigative unit including his promotion to Major.

- Captain Joshua Steinman; promotion to Captain, in charge of the Administrative Bureau.
- Sergeant Dan Morency; New Investigator.
- Lieutenant Jesus Ramos; promotion to Lieutenant
- Sergeant Dan Losapio

Major Newhouse noted that Lieutenant Brian O'Reilly was on vacation.

1. **Minutes of January 14, 2020**

Chair Votaw stated that the minutes of the regular meeting held on January 14, 2020, were delivered to the Board Members. It was moved by Board Member Parker and seconded by Board Member O'Halloran to approve the minutes of January 14, 2020. A roll call vote was taken as follows: Banks – Aye; Boyd-Dorsey – Aye; O'Halloran – Aye; Parker – Aye; Votaw – Aye; and Walker - Aye. Motion was unanimously carried.

CONSENT AGENDA

2. **Case No. Prelim 2019-072**

Policy Related to Complaint: Alleged Complaint: Multiple Complaints

Complainant: Tarique Wilson

Subject Officer: N/A

Internal Affairs Disposition: No Policy Violation

Discipline: None

Investigator: Captain Joshua Steinman

3. **Case No. Prelim 2019-078**

Policy Related to Complaint: Alleged Complaint: Towing and Storage of Vehicles

Complainant: Justina McKinnon

Subject Officers: Officer Kady Ennis

Internal Affairs Disposition: No Policy Violation

Discipline: None

Investigator: Sergeant Dan Losapio

CONSENT AGENDA (CONTINUED)

4. **Case No. Prelim 2019-079**

Policy Related to Complaint: Alleged Complaint: Harassment

Complainant: Roscoe Jordan

Subject Officers: Officer Jari Sanders

Internal Affairs Disposition: No Policy Violation

Discipline: None

Investigator: Captain Joshua Steinman

5. **Case No. Prelim 2019-081**

Policy Related to Complaint: Alleged Complaint: Not against FMPD Member

Complainant: Charles Devan

Subject Officers: N/A

Internal Affairs Disposition: No Policy Violation

Discipline: None

Investigator: Captain Joshua Steinman

6. **Case No. Prelim 2019-082**

Policy Related to Complaint: Alleged Complaint: Performance of Duty

Complainant: Dakota Vathis

Subject Officers: N/A

Internal Affairs Disposition: No Policy Violation

Discipline: None

Investigator: Captain Joshua Steinman

7. **Case No. Prelim 2019-083**

Policy Related to Complaint: Alleged Complaint: Destruction of Evidence

Complainant: James Carroll

Subject Officers: Acting Sergeant Jose Gomez

Internal Affairs Disposition: No Policy Violation

Discipline: None

Investigator: Sergeant Dan Losapio

8. **Case No. Prelim 2019-084**

Policy Related to Complaint: Alleged Complaint: Standard of Conduct

Complainant: Gordon Meyer

Subject Officers: Officer Philip Youngblood

Internal Affairs Disposition: No Policy Violation

Discipline: None

Investigator: Sergeant Dan Losapio

CONSENT AGENDA (CONTINUED)

9. **Case No. Prelim 2019-085**

Policy Related to Complaint: Alleged Complaint: Procedure/Protocol

Complainant: Sam Johnson

Subject Officers: Sergeant Kelsey Evenson
Officer Evelyn Roberts
Officer Anthony Townsend
Officer Joseph Way

Internal Affairs Disposition: No Policy Violation

Discipline: None

Investigator: Lieutenant Brian O'Reilly

10. **Case No. Prelim 2019-086**

Policy Related to Complaint: Alleged Complaint: Harassment by Neighbor

Complainant: Lisa Cotter

Subject Officers: N/A

Internal Affairs Disposition: No Policy Violation

Discipline: None

Investigator: Captain Joshua Steinman

11. **Case No. Prelim 2020-001**

Policy Related to Complaint: Alleged Complaint: Standard of Conduct

Complainant: Sade Motley

Subject Officer: Officer Rohan Morgan

Internal Affairs Disposition: No Policy Violation

Discipline: None

Investigator: Sergeant Dan Losapio

12. **Case No. Prelim 2020-002**

Policy Related to Complaint: Alleged Complaint: Inappropriate use of police vehicle intercom

Complainant: Unknown Female Caller

Subject Officers: Unknown Male Officer

Internal Affairs Disposition: No Policy Violation

Discipline: None

Investigator: Lieutenant Brian O'Reilly

It was moved by Board Member Boyd-Dorsey and seconded by Board Member Banks to approve the Consent Agenda. A roll call vote was taken as follows: Banks -Aye; Boyd-Dorsey - Aye; O'Halloran – Aye; Parker – Aye; Votaw – Aye; and Walker - Aye. Motion was unanimously carried.

MANDATORY REVIEW BY BOARD

13. Case No. Admin 2019-001* Voted for Full Review on September 10, 2019

Policies Related to Complaint:

- (a.) 9.1 General Rules of Conduct Section VI Police/Community Relations (E):
Overreacting
- (b.) 9.1 General Rules of Conduct Section II (A) (21): Conduct Toward the Public

Complainant: Blanca Briones

Officers: Officer Jimmy Hernandez (a.)(b.)

Internal Affairs Disposition:

- (a.) Exonerated
- (b.) Unfounded

Discipline: (a.) None (b.) None

Investigator: Lieutenant Brian O'Reilly

Captain Joshua Steinman gave the disposition of the case.

City Attorney Alley asked if the complainant was present and if she was provided notice for the meeting. Chair Votaw stated that the complainant, Ms. Blanca Briones was not present and confirmed that she was provided notice of the meeting via certified mail. City Attorney Alley asked City Clerk Carlisle to swear in all that were present for the full review.

City Clerk Carlisle administered the oath to people who would give testimony during the full review. City Clerk Carlisle stated that Lieutenant O'Reilly was not present. It was noted by City Attorney Alley that Captain Steinman was briefed on the matter and he is representing the Investigator, Lieutenant O'Reilly who was not present. Attorney Alley noted that there are no witnesses present for the complainant. Attorney Alley read the Rules of Procedure pertaining to a full review of the case.

Captain Steinman clarified that he was not a part of the investigation and did not investigate this complaint. He noted he was present to provide the Board information as it relates to the report, as Lieutenant Reilly was not currently available. He stated that this was an incident that occurred in an apartment development where officers were attempting to execute a warrant on a young man who was in the apartment; the warrant was a failure to appear for driving with a suspended driving license. Captain Steinman noted that four officers were at the call for service because Officer Hernandez was training Officer Martins, and Officer Morris was training Officer Amador. He stated that the arrest took place in the apartment and based on the statement that Officer Hernandez made during his subject interview, he had every intention of arresting Ms. Briones for obstruction; but he discovered during the conversation that her six children were inside the apartment. Officer Hernandez used discretion not to make the arrest because the children depended on her. Captain Steinman noted it was evident from the Final Action Summary that the Chief's recommendation and decision was exoneration for overreacting against Officer Hernandez, and Conduct to the Public was unfounded.

Chair Votaw provided his interpretation of the case, noting that Ms. Briones was upset at the beginning of the interaction as there were four officers at her door, two sworn officers and two trainees. He felt that her son wanted to turn himself in and not be taken in because of the warrant.

Board Member O'Halloran asked whether Captain Steinman reviewed the body cam. Captain Steinman responded; he did not review the body cam. Board Member O'Halloran asked Captain Steinman if he spoke with Officer Hernandez about this case. Captain Steinman stated he did not speak with Officer Hernandez regarding this case. Board

Member O'Halloran asked if Officer Hernandez was attending the meeting. Captain Steinman responded and stated that Officer Hernandez was not present at this meeting. Board Member O'Halloran stated that she did not understand how this constitutes a full review as the Investigative Officer, the Complainant, and Officer Hernandez was not present; and Captain Steinman did not review the body cams. She clarified that the point of a formal review is for the Board to discuss what they saw on the video, because the investigative report concerned enough members of the Board to say they needed to look at the videos. Board Member O'Halloran requested a motion to continue this item until there is someone present that the Board can talk with effectively about this case.

Chair Votaw stated that the videos featured what occurred at the front door, however, you could not see the inside of the apartment. Board Member O'Halloran responded that they blacked out the important parts and on the fourth video you can see what happened.

Board Member Banks stated that he needs to review the fourth video, as he watched three out of four videos. Board Member Banks stated that he was concerned with the speaking tone of Officer Hernandez and the way the four officers behaved. Board Member Banks stated that Ms. Briones was being respectful when they initially came to the door, but they finally got to her. Board Member O'Halloran stated that the situation was escalated by the officer, and not Ms. Briones; she does not think legally that they did anything incorrect, other than she disagrees on the potential arrest of Ms. Briones for obstruction. Board Member O'Halloran read the General Order, which states, employees shall not over-react when working and noted it is over-reacting if they would have arrested Ms. Briones for obstruction of justice. She felt officers should not use harsh language, unjustified use of force, and not escalate the situation. Board Member Parker stated it would be best to postpone the review to next month and noted that the review of this item was scheduled last month when Lieutenant O'Reilly was in town, but the Board did not have a quorum.

City Attorney Alley stated that the Board does not compel attendance of Police Officers nor has subpoena authority for Police Officers. Board Member O'Halloran stated that she was not implying that the Board should compel attendance of Police Officers, she was stating that if she was the subject of a mandatory review, she would want to be there. City Attorney Alley re-emphasized there should be no negative references drawn against the Officer with respect to his lack of appearance. Chair Votaw stated that most officers, if they agree with the finding, would feel that they would not have to attend the meeting; and referenced the General Order pertaining to Conduct toward the Public; regardless of provocation. Board Member Banks asked if they decide this was heavy handed, how would they deliver that message if nobody was present, and questioned if that is what the Board is supposed to do.

City Attorney Alley responded that the Board's options are Recommendation for Approval, Recommendation for Disapproval, Recommendation for Modification or Amendment, Recommendation for Additional Information, Additional Investigation or Re-investigation according to Florida Statute 112.5326b, and the Board could continue the matter until the investigator returns. City Attorney Alley further noted that he did not know when the investigator would return. In making one of those findings, the Board can add a statement or add a comment, and because this information will go back to the Chief of Police and the Chief of Police reviews this, things will proceed accordingly. Chair Votaw stated that they can request that Ms. Briones receive another certified letter if the review is continued and she is welcome to testify. Chair Votaw noted that the Board can request that the officer be in attendance if his schedule can be arranged. City Attorney Alley stated that the Board can request the officer be in attendance, however, you cannot compel it.

Board Member Banks noted that the new Inspector General is usually present, and he further stated that he wanted to get the message back for the Officer to calm down the next time he is in that situation, as you can still get the job done and not have to worry about

arresting somebody for getting in the way. Board Member Banks asked how the Board delivers that message to the Officer. City Attorney Alley stated that based on Procedures for the Mandatory Review; the decision can be added as a commentary and it will go back to the Chief. Board Member O'Halloran noted whatever their ultimate recommendation is they can also add a statement on why the Board made this decision. Board Member Banks asked if the Board was going to move this forward with modification. Board Member O'Halloran felt that the Board needs to have a significant conversation on this case and that they make a recommendation, whether it is approval, or disapproval. Chair Votaw felt a continuation would be the best way to proceed. Board Member O'Halloran stated she will motion to continue to next meeting.

It was moved by Board Member O'Halloran and seconded by Board Member Boyd-Dorsey to continue Case No. Admin 2019-001 to the next meeting, April 14, 2020. A roll call vote was taken as follows: Banks - Aye; Boyd-Dorsey; O'Halloran – Aye; Parker – Aye; Votaw – Aye; and Walker - Aye. Motion was unanimously carried.

It was moved by Board Member O'Halloran and seconded by Board Member Walker to request that Officer Jimmy Hernandez be present at the next meeting, April 14, 2020, if available to attend, when Case No. Admin 2019-001 would be heard. A roll call vote was taken as follows: Banks -Aye; Boyd-Dorsey - Aye; O'Halloran – Aye; Parker – Aye; Votaw – Aye; and Walker - Aye. Motion was unanimously carried.

City Attorney Alley noted that Investigator Officer Lieutenant O'Reilly will be back next month. He provided a word of caution to the Board, that the Board should not draw any negative inference on the Officer if he is not able to be present at the next Board meeting. Chair Votaw stated that he is sure that they will hear if he is on duty.

NON-MANDATORY REVIEW BY BOARD

14. Case No. Admin 2019-018

Policies Related to Complaint:

- (a.) 9.1 General Rules of Conduct Section II (A) (23) Department Credentials
- (b.) 9.1 General Rules of Conduct Section VI (L) Harassment
- (c.) 25.3 Mobile Video/Audio Recording Equipment Section IV (A)

Complainant: DeVouris Means

Officers: Officer James Moschella (a.)(b.)
3 Special Enforcement Unit Members (c.)

Internal Affairs Disposition:

- (a.) Sustained
- (b.) Exonerated
- (c.) Other Finding

Discipline:

- (a.) Counseling
- (b.) N/A
- (c.) N/A

Investigator: Captain Joshua Steinman

Captain Joshua Steinman gave the disposition of the case.

Chair Votaw stated that the report stated that while the officers were doing their job, Mr. Means was upset, and other neighbors reacted.

It was moved by Board Member Banks and seconded by Board Member O'Halloran to accept the findings of the police department. A roll call vote was taken as follows: Banks -Aye; Boyd-Dorsey - No; O'Halloran – Aye; Parker – Aye; Votaw – Aye; and Walker - Aye. Motion was carried.

15. **Announce next meeting**

Chair Votaw stated that the next meeting will be held on April 14, 2020.

OTHER BUSINESS

- Councilperson Streets announced that he will continue to serve as Board Liaison until a new Board Liaison is formally appointed. He stated his appreciation to the Board Members for their service on behalf of Mayor Henderson and the City Council.
- Board Member Banks stated that he met with City Manager Kazemi to request his assistance toward filling the three vacancies on the Board. Board Member Banks asked Councilperson Streets to follow up with the City Manager regarding the appointments due to quorum requirements.
- City Attorney Alley advised that Sunshine Law and Public Records Law Training be provided annually to the Board members. He stated that the training can take place at a future Board meeting with less items on the agenda or on an individual basis upon request.

There being no further business, the meeting was adjourned at 6:12 p.m.