

**MINUTES
CITY OF FORT MYERS
CITIZENS POLICE REVIEW BOARD
APRIL 13, 2021**

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, April 13, 2021, at 5:30 p.m. Present were Erma Boyd-Dorsey, presiding; Michele Parker; Forrest H. Banks; Robert W. Votaw, Jr.; Steven Brown-Cestero, Amanda L. Dennis; and Nzingha Gaines, Board Members. Also present were Grant W. Alley, City Attorney, Gwen Carlisle, City Clerk and Lily Baker, Recording Specialist. Absent: Danielle L. O'Halloran, Chair

PLEDGE OF ALLEGIANCE

Vice Chair Boyd-Dorsey led the Pledge of Allegiance to the Flag of the United States of America.

ROLL CALL

Roll call was taken by Lily Baker, Recording Specialist. Absent: Danielle L. O'Halloran, Chair

City Clerk Carlisle announced for the record that Vice Chair Boyd-Dorsey would be Acting Chair and presiding over the meeting.

OLD BUSINESS

1. Citizens Police Review Board Annual Report that will presented to the Mayor and City Council.

Vice Chair Boyd-Dorsey explained that this item can be tabled if the Board wishes to do so, until Chair Danielle O'Halloran is present to discuss.

MOTION: *It was moved by Board Member Banks to table the discussion of the Citizens Police Review Board Annual Report to the May 11, 2021 meeting; seconded by Board Member Votaw.*

A roll call vote was taken as follows: Boyd-Dorsey – Aye; Gaines – Aye; Votaw – Aye Brown – Aye; Banks – Aye; Dennis – Aye; Parker – Aye. Motion carried unanimously.

PUBLIC INPUT

Major Bill Newhouse introduced new Internal Affairs Investigators, Lieutenant Lesa R. Breneman and Sergeant James Langton.

Matt Sellers, Gulf Coast Chapter President, Florida Police Benevolent Association, Inc. (PBA), stated that on March 9, 2021 the Board voted to have Officer Jimmy Hernandez investigated again for an incident that occurred on August 31, 2020. He noted that this act not only violated the Police Officers' Bill of Rights, but additionally violated his right to due process, provided in the Collective Bargaining Agreement between the City of Fort Myers and the Gulf Coast Chapter of the Florida PBA. This incident was investigated, and no policy violation was found. The full review of the preliminary assessment was conducted on March 9, 2021, wherein the Board voted to have Officer Hernandez investigated further, 192-days from the day of notice to the Officer. Mr. Sellers stated that Florida Statute 112.532(6)

requires, in relevant part that investigations be completed within 180-days after the date the agency receives notice. Mr. Sellers requested that the Board vote to rescind their original recommendation to investigate Officer Hernandez or the PBA would have no other choice but to proceed accordingly.

Board Member Brown thanked Mr. Sellers for his time and suggested that the Board not discuss any further until the City Council has had an opportunity to review the letter.

Board Member Banks requested City Attorney Alley's legal input.

City Attorney Alley stated that the empowering Ordinance No. 3507 was lawfully adopted by the Mayor and City Council for the City of Fort Myers. The Board Members have been lawfully appointed and under Section 2-128 following the review process, the Board shall submit a written report to the Mayor, City Council, City Manager, and Chief of Police. The written report may contain any, or all of the following: 1. Recommendation for approval; 2. Recommendation for disapproval; 3. Recommendation for modification or amendment; and 4. Recommendation for additional information, additional investigation, or re-investigation according to Florida Statute 112.532(6)(b). City Attorney Alley conveyed that the Board is not the investigatory agency and acting in an advisory capacity with an obligation to make one of the four recommendations.

Board Member Brown echoed City Attorney Alley's comments and conveyed that the Board is advisory in nature and as a recommending body, the determination lies with the Chief of Police and City Council.

City Attorney Alley stated for the record that the City is in receipt of the letter and that he would like the opportunity to review the alleged violation in greater time and work with the Fort Myers Police Department on this matter.

2. Update on Police Chief's response regarding the Citizens Police Review Board recommendation on Case Prelim 2020-059 (Inspector General Donald Oswald)

Inspector General Donald Oswald stated that this item addresses the Police Department's response to Case No. Prelim 2020-059 and relates to the discussion that Mr. Matt Sellers has brought forward. On March 9, 2021, the Board made a recommendation to further investigate and the Police Chief has opted to open an Administrative Investigation under Case No. Admin 2021-004.

NEW BUSINESS/PRESENTATIONS

3. Minutes and Board Report of the Citizens Police Review Board meeting held on March 9, 2021

MOTION: It was moved by Board Member Banks to approve the minutes and Board Report of the Citizens Police Review Board meeting held on March 9, 2021; seconded by Board Member Brown.

A roll call vote was taken as follows: Boyd-Dorsey – Aye; Gaines – Aye; Votaw – Aye Brown – Aye; Banks – Aye; Dennis – Aye; Parker – Aye. Motion carried unanimously.

CONSENT AGENDA

(Any Board Member may remove an Item from the Consent Agenda and place it on the Regular Agenda for discussion following the Consent Agenda)

4. **Case No.:** Prelim 2020-082
Investigator: Sergeant Daniel Morency
Complainant: Elizabeth Mendez
 - (a) **Officer:** Officer Michael Schneider
Policy Related to Complaint: Alleged Complaint: Use of Force
Chief of Police Disposition: No Policy Violation
Discipline: None
 - (b) **Officer:** Officer Christopher Mocci
Policy Related to Complaint: Alleged Complaint: Use of Force
Chief of Police Disposition: No Policy Violation
Discipline: None
 - (c) **Officer:** Officer Anthony Dewar
Policy Related to Complaint: Alleged Complaint: Use of Force
Chief of Police Disposition: No Policy Violation
Discipline: None
 - (d) **Officer:** Officer Ruben Mora
Policy Related to Complaint: Alleged Complaint: Use of Force
Chief of Police Disposition: No Policy Violation
Discipline: None
 - (e) **Officer:** Lieutenant Peter Tarman
Policy Related to Complaint: Alleged Complaint: Use of Force
Chief of Police Disposition: No Policy Violation
Discipline: None

5. **Case No.:** Prelim 2021-001
Investigator: Sergeant Dan Losapio
Complainant: Sade Motley
 - (a) **Officer:** Officer Jari Sanders
Policy Related to Complaint: Alleged Complaint: Harassment
Chief of Police Disposition: No Policy Violation
Discipline: None

6. **Case No.:** Prelim 2021-002
Investigator: Sergeant Daniel Morency
Complainant: Michael Martinez
 - (a) **Officer:** Officer Ruben Mora

Policy Related to Complaint: Alleged Complaint:
Performance of Duty

Chief of Police Disposition: No Policy Violation

Discipline: None

(b) **Officer:** Officer Anthony Dewar

Policy Related to Complaint: Alleged Complaint:
Performance of Duty

Chief of Police Disposition: No Policy Violation

Discipline: None

7. **Case No.:** Prelim 2021-006

Investigator: Sergeant Daniel Morency

Complainant: Beth Gottshall

(a) **Officer:** undetermined

Policy Related to Complaint: Alleged Complaint:
Speeding

Chief of Police Disposition: No Policy Violation

Discipline: None

MOTION: *It was moved by Board Member Votaw to approve the Consent Agenda as presented; seconded by Board Member Dennis.*

A roll call vote was taken as follows: Boyd-Dorsey – Aye; Gaines – Aye; Votaw – Aye Brown – Aye; Banks – Aye; Dennis – Aye; Parker – Aye. Motion carried unanimously.

MANDATORY REVIEW BY BOARD

(Indicates a full review is required or voted on under the City Ordinance Rules and Procedures for the Citizens Police Review Board)*

8. **Case No.:** *FD 2017-002

Investigator: Lieutenant (Currently Captain) Jason Fields

Complainant: Chief Derrick Diggs

(a) **Officer:** Officer Tyler Williams

Policy Related to Complaint: General Order 9.1 General
Rules of Conduct Section II General Rules of Conduct (A)

(2) Reference F.S.S 776.012

Chief of Police Disposition: Within Policy

Discipline: None

Captain Jason Fields stated he was available to answer any questions that the Board may have regarding the case.

Vice Chair Boyd-Dorsey mentioned that Tim Culhane, Attorney, representing Officer Tyler Williams, communicated that they would not be appearing before the Board tonight.

Board Member Votaw noted that the investigation was very thorough. Captain Fields stated that any investigation of this magnitude is very intense and requires collaboration with

multiple agencies. Board Member Votaw mentioned that the Officer appeared to have done everything strictly by the book.

MOTION: It was moved by Board Member Votaw to accept the findings of the police department for Case No. FD 2017-002; seconded by Board Member Parker.

A roll call vote was taken as follows: Boyd-Dorsey – Aye; Gaines – Aye; Votaw – Aye Brown – Aye; Banks – Aye; Dennis – Aye; Parker – Aye. Motion carried unanimously.

NON-MANDATORY REVIEW BY BOARD (NONE)

OTHER BUSINESS

NEXT MEETING ANNOUNCEMENT

Vice Chair Boyd-Dorsey stated that the next meeting will be held on May 11, 2021 at 5:30 p.m.

ADJOURNMENT

There being no further business, the meeting was adjourned at 5:55 p.m.