



Charlotte City Council
**Council-Manager
Relations Committee**
Meeting Summary for September 23, 2013

COMMITTEE AGENDA TOPICS

- I. **Subject:** **Handbook for Citizen Advisory Board Members and Code of Ethics**
 Action: Recommend advising City Council about Handbook.
- II. **Subject:** **Citizen Review Board Task Force Recommendations**
 Action: Ask City Attorney to draft ordinance with City Manager's
 recommendations for discussion at October meeting.
- III. **Subject:** **Next Meeting Date**
 Monday, October 28 at 11:45 a.m. in Room 267 [room change]

COMMITTEE INFORMATION

Present: Council member Warren Cooksey, Mayor Patsy Kinsey, Council member
 James Mitchell
Absent: Council member David Howard
Time: 11:45 a.m. to 12:55 p.m.

ATTACHMENTS

1. Agenda Package
2. PowerPoint Presentation
3. Process Map

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DISCUSSION HIGHLIGHTS

Committee Discussion:

Committee Chair Warren Cooksey called the meeting to order. Due to the size of the audience, a sign-in sheet was passed around in lieu of introductions. He then reviewed the agenda.

I. Handbook for Citizen Advisory Board Members and Code of Ethics

Council member Cooksey reminded the Committee this item was postponed from the last meeting due to time constraints. The City Clerk has formalized this Handbook that includes an ethics policy. Does this need to be an official recommendation to Council or just advisement from the Committee to Council about the Handbook?

Carol Jennings reminded the Committee the ethics policy is new; the rest is just an outline of the current processes. The Code of Ethics was prepared by Bob Hagemann who has indicated this could just be shared with City Council.

Mayor Kinsey made a motion to advise City Council about the Handbook on behalf of the Committee. Mitchell seconds. *Motion passes unanimously (Kinsey, Cooksey, Mitchell – for)* [Note: City Council will be asked to adopt the Code of Ethics for Members of Boards, Committees and Commissions at its meeting on October 28, 2013.]

II. Citizen Review Board Task Force Recommendations

Council member Cooksey advised the Committee and audience this was their second look at the recommendations and this item relates to internal police business, not the recent shooting, which is a criminal matter. This is internal.

Willie Ratchford thanked the Committee on behalf of the Community Relations Committee / Citizens Review Board Task Force for hearing this second report and asked members of the Task Force present to stand for recognition. He then began his presentation [attached].

Mr. Ratchford advised the Committee that the Report they received included all the feedback that was received and is not the recommendations, as reported in the media. He continued that their directive from the August 19, 2013 meeting was 1) look at the lawsuits filed; 2) look at the connection between Internal Affairs, Civil Service Board and Citizens Review Board; and 3) get recommendations from the Task Force. Those directives are being reported on today.

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Mr. Ratchford then turned the presentation over to Major Cam Selvey, Internal Affairs. Major Selvey provided the Committee with a process map [\[attached\]](#).

Hearings – Slide

Council member Cooksey asked how people are selected for the Independent Chain of Command Review Board. Major Selvey responded they are selected depending on their availability at random from an excel spreadsheet of alphabetical names. Council member Cooksey followed up by asking how much care is given to finding out previous relationships. For example, what if the officer worked for three years under a Captain and then was moved to another location and that former Captain's name comes up for the review? Major Selvey said they do rely on the captains to do self-identifying. Council member Mitchell asked if a CRC member is also on the panel. Major Selvey responded yes, they are full voting members. The officer also has the option of including a peer.

Complaint Adjudication – Slide

Council member Mitchell asked if the information is made public or considered personnel related. Major Selvey said that when there is a complaint allegation at any level, a certified letter is sent to the complainant letting them know if the complaint was sustained, what the corrective action was in the situation.

Major Selvey concluded his part of the presentation and noted this was really a broad overview.

Mayor Kinsey said it was very interesting and information they needed to know.

Council member Cooksey asked with regard to providing a certified letter, when does the 7-day window start? Major Selvey said when CMPD receives the letter of complaint, they send instructions how to file within the 7 days. There is also an additional page for the statement of relevant facts.

Council member Mitchell asked why they have just 4 different categories. Major Selvey said that's what was agreed to in 1998.

Council member Cooksey added he thought slide with Internal Affairs level hearings was helpful noting it shows 23 out of 40 rules of contact; so how do the 4 track within the 23? Major Selvey said there were 6 unbecoming conducts; 28 use of force (regular and discharge of a weapon) and 29 arrest search and seizure. Council member Mitchell followed up by asking if most cities use those 4 categories or is it more broad? Mr. Ratchford said they could find out; they've done research on other cities.

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Council member Cooksey asked if it was fair to say looking at other cities with Citizens Review Boards, there is an adopted national template or are they unique to the culture of the city they were founded in? Mr. Ratchford answered there is uniqueness to the city and citizens. He then introduced Bob Hagemann, City Attorney to review lawsuits. Mr. Hagemann said he would provide a very high-level review of the three lawsuits.

One case was unbecoming conduct. The department recommended 40 hours of active suspension. The citizen felt that was not harsh enough; the Citizens Review Board agreed. The citizen went to civil court, but the case was dismissed.

The second case was a traffic stop where the officer thought he had identified a person of interest. The information he had was faulty. There was a civil action and settlement of \$7,500.

The third case was due to a series of arrests (three) by the same officer in an eight month period. The CRB did not recommend a hearing after the first arrest, but the citizen took civil action after the third. The citizen actually served jail time. The settlement was \$99,000 after the magistrate judge expressed concerns and the City looked at our civil exposure. The conduct did not occur with the first arrest; it wasn't until later.

Mr. Hagemann then discussed legal constraints around the conceptual proposals that have been discussed.

Subpoena Power – Mr. Hagemann had a conversation with the attorney for the Citizens Review Board and asked if he could think of a situation where subpoena power could have brought in more information. The answer was he could not think of any. Not saying it couldn't happen but the Police Department brings their entire file to the Citizens Review Board and the citizen can bring whatever evidence they have. They have motivation to bring everything. Perhaps if there was an unwilling third party witness, it might be helpful. But more importantly, granting subpoena power is a legislative act. The Civil Service Board does have subpoena power, but they were also created by a legislative act. The legislation specifically grants that authority to them. In the late 1990s, Council created the Citizens Review Board by ordinance. It is his legal opinion that only the General Assembly can grant that power. If Council is interested in pursuing it, we would need to request legislation in Raleigh.

Council member Mitchell asked how many times it had been used. Mr. Hagemann said they could find out. Council member Mitchell then stated that if Council chooses to pursue that, the legislature doesn't convene until May and because this is the short session the entire Delegation has to agree.

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Mr. Hagemann confirmed the rules are different between the long and short session for the legislature. 2014 is a short session, which will start May 14. The rules restrict them to bills related to adjusting the 2-year budget. New local bills can only be requested with unanimous Council support and unanimous support of the Delegation. Anything controversial is taken up during the long session – or 2015.

Independent Investigations - The way the Citizens Review Board is structured, if they disagree with the Chief's decision, they can make recommendations. There has been discussion about strengthening their role to decision-making. In the Council-Manager form of government, the City Manager is responsible for personnel decisions but can delegate to employees, such as the Police Chief. To change that would also require legislative authority, which is also what we have with the Civil Service Board. Again, any interest would need to happen via Raleigh.

Transparency – We do have to respect the privacy of employees; these are personnel records. If we look at opening up file information; we need to look at that very carefully. Again, the City would need to go to Raleigh for authorization. Individuals on the Citizens Review Board sign confidentiality agreements. Anything that exposes personnel records might require state law changes.

Mr. Ratchford then introduced Patricia Albritton, Chair of the Community Relations Committee and Co-Chair of the CRC / CRB Task Force. He noted before she began her presentation that there is no source of funding, so there are no recommendations that cost anything.

CRC / CRB Task Force Recommendations – slide (recommendations 1-3)

Mayor Kinsey noted that it is often good to extend time, but why did they extend to 21 days? Ms. Albritton said that came from requests received from the community groups.

Council member Cooksey asked related to promoting availability of advocates, his understanding was there are advocates available now; would we be creating a pool? Mr. Ratchford said there is a group out there now; they would be putting a list together to give to people earlier in process.

CRC / CRB Task Force Recommendations – slide (recommendations 11-12)

Council member Mitchell asked regarding “when a majority of the members feel it is necessary” is that a vote? Ms. Albritton answered yes. Council member Mitchell asked if there was a minority opinion presented. Ms. Albritton responded the recommendations were by majority opinion; there was a minority

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opinion expressed. Mr. Ratchford added in reference to the Task Force during the preliminary discussions everyone did not agree. They reached consensus through the process.

Council member Mitchell asked if there was a minority document. Mr. Ratchford said no, there was just the one document. There were 12 members of the Task Force, 5 of which are current Citizens Review Board members.

Council member Mitchell said he would read the full report and added that he always encourages citizens to get involved. This 90-day goal was extended, but it has been a great process and great solutions have been provided. He thanked the members for participating in the process.

Council member Cooksey said the options now are 1) thanks and nothing is advanced; 2) ask the City Attorney to convert the recommendations into an ordinance for the Committee review; and 3) do the second and ask the City Manager to weigh-in.

Ron Kimble added he knew the City Manager would want to work with Council on the recommendations. Council member Mitchell asked when this could get to Council. Mr. Kimble said their next Committee meeting is October 28, which could include the Manager's recommendations and still go to full Council. Carol Jennings added it would be preferable to have the existing Council take action. There could be a dinner briefing on November 11 and action requested on November 25.

Mayor Kinsey said the Committee also needed Council member Howard to review this.

Council member Cooksey concluded the Committee would like the City Attorney to create ordinance language; have the City Manager weigh-in; so the Committee could take a final look at the recommendations at the October 28 meeting.

III. Next Meeting Date

Monday, October 28 at 11:45 a.m. Note meeting changing to Room 267.

Agenda: Citizens Review Board Task Force Recommendations
 Possible Council Retreat Locations

Meeting Adjourned

Council-Manager Relations Committee

Monday, September 23, 2013 – 11:45 a.m.

****Room 267****

Committee Members: Warren Cooksey, Chair
Mayor Patsy Kinsey
David Howard
James Mitchell

AGENDA

I. Handbook for Citizen Advisory Board Members and Code of Ethics

Staff Resource: Stephanie Kelly and Bob Hagemann

Action: Review Handbook and recommend approval to Mayor and City Council. Attachment

II. Citizen Review Board Task Force Recommendations

Staff Resources: Willie Ratchford, Cam Selvy, Bob Hagemann

Task Force Representatives: Patricia Albritton and Gregory West

Action: Receive Task Force recommendations.

Attachment

III. Next Meeting Date

Monday, October 28, 2013 at 11:45 a.m. in Room 280



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Handbook for Citizen Boards, Committees, and Commission Members

**A guide for citizens
appointed by the Mayor and City Council**

August 2013

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INTRODUCTION

Thank you for volunteering to serve your community through an appointment by the Mayor and City Council to a citizen board, committee, or commission. This handbook will acquaint you with the Mayor and City Council's policies in regard to boards, committees, and commissions and the particular roles and responsibilities of members. This handbook is provided to new appointees by the Office of the City Clerk along with their notice of appointment.

Boards, committees, and commissions are established to increase citizen input and participation in City government. Some of the boards, committees and commissions exist to advise and make recommendations to City Council, while others have distinct regulatory responsibilities that are established by law.

By accepting this appointment, you are now in a position to work directly with your local government, on behalf of your fellow citizens, to enrich community life on a wide variety of issues. The greater your participation in the work of the board, the greater will be the effectiveness of the board in carrying out its charge and ultimately improving the community.

While the Mayor and City Council set policy and make decisions affecting their constituency, they also consider citizen participation a vital aspect of good government. Working in partnership with the Mayor and City Council, City staff, and your fellow citizens, we can continue to set the standards for excellence in good government and quality of life.

All board and commission meetings shall comply with the North Carolina Open Meetings Law, which requires that all meetings of "public bodies" be open to the public after proper notice is given. The open meetings law (G.S. 143-318.9 through 143-318.18) defines the term *public body* as any board, commission, committee, and so forth, in state or local government that (1) has at least two members and (2) exercises or is authorized to exercise any of these powers: legislative, policy-making, quasi-judicial, administrative, or advisory.

Unless otherwise specified, a quorum is a majority of the actual members of the board or commission. A quorum of the board or commission shall be required in order for any action to be taken.

APPOINTMENTS TO BOARDS, COMMITTEES, AND COMMISSIONS

The Charlotte Mayor and City Council have a long history of providing many opportunities for citizen participation on local government boards, committees, and commissions. There are 38 standing boards, committees, and commissions to which the Mayor, City Council and occasionally the City Manager make appointments. With a few exceptions, appointment powers are divided on a one-third and two-thirds ratio between the Mayor and the City Council.

The Mayor and the City Council appoint citizens to both ad hoc committees and standing committees. Ad hoc committees are temporary committees that have been given a very limited charge and are usually expected to provide recommendations to the Mayor and City Council within one year. Standing committees have ongoing responsibilities and are usually either regulatory or advisory in nature. Regulatory committees are involved in setting policy or operating procedures for the related activity, e.g., the Civil Service Board, the Passenger Vehicle for Hire Board, the Zoning Board of Adjustment. Advisory committees are charged with reviewing and commenting on local plans and policies, e.g., the Planning Commission and the Tree Advisory Committee.

A description of all City boards is available in the City Clerk's Office and on the City Clerk's webpage at: <http://charmack.org/city/charlotte/CityClerk/BoardsandCommissions/Pages/Boards.aspx>.

The Mayor and City Council also appoint citizens to non-city bodies.

Appointments to boards, committees and commissions are made quarterly. At least four weeks prior to the quarterly date for nominations, the City Clerk's Office provides the Mayor and City Council with the list of upcoming vacancies eligible for appointment. The vacancies are publicized by providing and posting a list of vacancies to local newspapers, the GOV Channel and through the City's website. Terms expiring during any quarter shall remain filled by the person then holding the position until a successor is appointed.

Applicants seeking appointments to a specific board are strongly urged to attend several meetings of the board prior to completing and submitting an application.

An application is required for consideration of an appointment to a board or commission. All information provided in completing the application becomes public information and is therefore subject to public records requests.

All discussion and consideration of appointments are made in open sessions of the City Council. After the announcement is made, each member of City Council has the opportunity, at a specified meeting, to nominate one person for appointment to each of the positions to be filled. At a subsequent meeting, City Council makes the appointments to fill the vacant positions. This is done by ballot vote and a nominee must receive at least six votes. If no nominee receives at least six votes on the first ballot, the process is repeated with only the names of the top vote getters. This process is repeated until there are two candidates. If there is still not a person receiving six votes, the appointment may be deferred to the next Council meeting.

Once an application for an appointment has been filed with the City Clerk, it is placed on file and remains active for one year. At the end of that period of time, the applicant will be contacted by the City Clerk's Office to see if they wish to seek other opportunities to participate on a City board.

Applications may be obtained from the City Clerk's Office or are available on the City's website: <http://charmeck.org/city/charlotte/CityClerk/BoardsandCommissions/Pages/Application.aspx>

QUALIFICATIONS

1. Appointees to boards, committees, and commissions shall be registered to vote in Mecklenburg County, unless otherwise specified or provided for by law, ordinance, or City Council action establishing said board or commission, or in the rules or by-laws of said board or commission, if approved by City Council.
2. No citizen shall be eligible to hold concurrently more than two Mayoral or City Council appointments to standing boards, committees, or commissions; this limitation shall not apply to ad hoc committees appointed by the City Council.
3. Criminal background checks are required for nominees to the following boards:
 - Charlotte Regional Visitors Authority
 - Charlotte Housing Authority
 - Citizens Review Board
 - Civil Service Board
 - Domestic Violence Advisory Board
 - Housing Appeals Board
 - Passenger Vehicle for Hire Board
 - Zoning Board of Adjustment

A nominee to the Citizens Review Board who has a felony or Class A1 misdemeanor conviction, a Class 1 or Class 2 misdemeanor conviction within three years of the date of nomination shall not be eligible to serve. Appointments to the other listed boards may be denied for those persons convicted of crimes against a person, or crimes against property where intent is an element, or any offense involving drugs, alcohol, or gambling. Other crimes may also be considered by the Council in making appointments.

4. An oath of office (or affirmation) is required for some boards, committees, and commissions. Where applicable, newly appointed board members will take and sign an oath of office or affirmation following their appointment. A new member may not vote on any matter until the oath of office has been administered. Reappointed members shall also be administered the oath of office, if applicable.
5. Appointees to boards, committees, and commissions shall receive a copy of this handbook and be asked to date and sign an acknowledgement of same.

TERM OF OFFICE

No member of any board or commission may serve more than two full consecutive terms. After serving two full consecutive terms, a person must be off the board or commission for one full term before being eligible for appointment to the same body. An exception to this rule may be made on a case by case basis (i.e., a need for continuity or experience).

An individual may not serve on more than two boards, committees, or commissions at one time.

ROLES AND RESPONSIBILITIES OF BOARD MEMBERS, CHAIRPERSONS AND STAFF

The roles and responsibilities listed below are general guidelines. It is important that dialogue take place between the members, chairpersons, and staff on how the specific board can function at its optimum. The members and chairperson of a board serve as advisors to the Mayor and City Council and receive their charge from the Mayor and City Council. The staff is an employee of the City, usually with other job responsibilities, and is accountable to their Department Head and/or City Manager. Responsibilities clearly defined by the chairperson and staff will make the board and its work more effective.

A. Board Members

Board members are an important part of the City of Charlotte government process. They are selected to be part of a board or commission that advises the City Council on pertinent issues, policy-making, and project development and implementation. This can be accomplished in the following ways:

- It is important for every member to be aware of the time, energy, and commitment that is involved in being part of an advisory board.
- The majority of work of the advisory board is accomplished at the monthly meeting. Therefore, all members in attendance contribute to the most effective work plan.
- Individual members are encouraged to prepare materials that are substantive and meet required deadlines.
- Members may be asked by the chairperson to complete specific tasks which may include serving on subcommittees.
- Every member contributes to the problem-solving process.
- All members are required to vote on recommendations and actions of the group unless a potential conflict of interests exists (see Code of Ethics Policy, page 12).

- In order for the board to provide the most comprehensive information to the Mayor and City Council, each member works in the spirit of compromise and negotiation in order to reach consensus when possible.
- A member must notify the chairperson and the staff support person if he / she cannot attend a meeting
- Members are asked to keep up-to-date on information relating to board interest areas.
- Members shall not represent their individual views through any contacts they have with the media as being representative of the full board unless the board has formally taken a position on the matter
- Members shall communicate through the Chairperson upon taking a position on any matter of significance.

B. Board Chairperson

The board chairperson may be appointed by the Mayor, City Council or the members of their respective board, in accordance with the guidelines and/or legislation establishing such board, and act as a link between the Mayor and City Council, advisory board members, and the community. The chairperson's responsibilities include the following:

- The chairperson advises the Mayor and City Council upon request or in reference to the mission of the board and City Council policy.
- The chairperson and staff conduct an orientation for new members to familiarize them with the work and operations of the board or commission, as well as the information contained in this handbook.
- The chairperson delegates assignments to members, recognizing skill, experience, and interest of individuals in the group; he/she makes sure all members get a chance to participate and uses subcommittees as much as possible to empower the group.
- The chairperson seeks the input of members on the work program and agenda formulation.
- The chairperson presides over the meetings and acts as facilitator to keep to the agenda.
- The chairperson makes sure all meetings are open to the public.
- The chairperson makes sure that citizen input is reflected in the group's recommendations.

- The chairperson uses consensus-building techniques to find optimum recommendations.
- The chairperson, in conjunction with staff, prepares timetables for completion of projects.
- The chairman and members develop annual reports which are due to the Mayor and City Council in accordance with adopted policy.
- The chairperson is encouraged to discuss the advisory board work with applicants seeking appointment to the board.
- The chairperson may forward names as recommendations to fill individual vacancies for the Mayor and City Council's consideration, attaching the relevant background information for each nominee.
- The chairperson may recommend certain skill sets necessary to fill individual vacancies that are a reflection of the needs of the board and community.
- The chairperson meets with the Mayor and City Council concerning the work of the board, upon their request.
- The chairperson shall not represent their individual views through any contacts they have with the media as being of representative of the full board unless the board has formally taken a position on the matter.
- The chairperson keeps the Mayor and City Council apprised of all significant issues, either directly or through staff support.

C. Board Staff

Staff provides important resources to boards. The resources and staff time available to boards varies. Boards report to the Mayor and City Council and the staff report ultimately to the City Manager, an arrangement that works most effectively when the chairperson and the staff have a clear understanding of what needs to be done and what resources are available to get the job done. The staff carries out his/her responsibilities in the following ways:

- The staff shall provide assistance to clarify the role of the board or commission, and with routine issues such as the time of meetings, quorums, etc.
- The staff works with the chairperson to prepare each agenda and necessary meeting materials.
- The staff notifies all members of upcoming meetings and new developments.

- The staff provides attendance reports and notifies the City Clerk's Office of vacancies due to resignations, multiple absences, or other reasons.
- The staff gathers information, provides research and makes it available to the board or commission.
- The staff provides technical expertise to the group.
- The staff prepares draft reports and correspondence and makes sure all City presentations are prepared in the appropriate format.
- The staff keeps his/her supervisor and department head informed on the work of the advisory board.

ATTENDANCE POLICY

In order for a board or commission to be effective and efficient, and to accomplish its purpose, its membership must be actively involved and attentive to the business of the body. Therefore, **all members are required to attend at least 65%** of the regular and special meetings of the body and assigned committees and subcommittees held in any one calendar year with **NO EXCUSED ABSENCES**.

On January 1st of each year, a member of any board or commission appointed by the Mayor, Council or City Manager shall be automatically removed from said body for failure to attend at least 65% of all regular and special meetings of the body and assigned committees and subcommittees held during the immediately preceding calendar year. For persons not serving for an entire calendar year, the 65% attendance requirement shall apply to meetings held during the portion of the year during which the person served.

In order to be eligible for reappointment to a board or commission, **a member must have attended at least 75%** of the regular and special meetings of the body and assigned committees and subcommittees during the concluding term, or portion of the term during which the member served. A member of a board or commission shall be **automatically removed** from said body for **failure to attend any THREE CONSECUTIVE REGULAR MEETINGS** of the body. A member must attend fifty percent (50%) of a meeting in order to be considered in attendance for the purposes of this policy.

Members appointed in the fourth quarter of the year shall be exempt from the 65% attendance rule for that calendar year only, but are still subject to the three consecutive meeting policy.

The City Clerk shall send a letter to any member who is in danger of violation of the attendance requirement, asking them to be mindful of said requirement.

The City Clerk shall send a letter to anyone who is removed from a board or commission for failure to meet the attendance policy. Vacancies resulting from the removal of a member shall be filled by the same method as provided for initial appointments.

This attendance policy shall apply to every member of a board or commission that is part of the City of Charlotte regardless of who appoints the member. In addition, this attendance policy shall apply to all appointees by the City Council to a board or commission that is not part of the City of Charlotte.

RESIGNATIONS AND REPLACEMENTS

Any member of a board or commission who desires to resign shall do so in writing to the staff support and/or Office of the City Clerk.

Unless otherwise provided by law, ordinance or resolution, all appointments by the Mayor, City Council and City Manager to a board or commission serve at the pleasure of the appointing office, and may be removed at the discretion of said office.

Code of Ethics for Members of Boards, Committees, and Commissions of the City of Charlotte, North Carolina

WHEREAS, the Constitution of North Carolina, Article I, Section 35, reminds us that a “frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty,” and

WHEREAS, a spirit of honesty and forthrightness is reflected in North Carolina’s state motto, *Esse quam videri*, “To be rather than to seem,” and

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires local governing boards to adopt a code of ethics and, pursuant to Section 160A-86, the Charlotte City Council has previously adopted a Code of Ethics for the Mayor and City Council , and

WHEREAS, it is appropriate that members of City boards, committees, and commissions, as well as Mayoral and City Council appointees to non-City bodies (hereinafter “Board Members”), also adhere to a Code of Ethics.

NOW THEREFORE, in recognition of our blessings and obligations as citizens of the State of North Carolina and as public officials representing the citizens of the City of Charlotte, and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we the City Council do hereby adopt the following General Principles and Code of Ethics to guide Boards Members in their lawful decision-making.

GENERAL PRINCIPLES UNDERLYING THE CODE OF ETHICS

- The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.
- Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.
- Board Members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.
- Board Members must always remain aware that they may, at various times, play different roles:
 - As advisors, who balance the public interest and private rights in considering and recommending, among other things, ordinances, policies, and decisions
 - As decision-makers, who arrive at fair and impartial determinations.
- Board Members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.

- Board Members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of the Mayor and City Council and the citizens of Charlotte. Each Board Member must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

CODE OF ETHICS

The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for Board Members and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a member's best judgment.

Section 1.

Board Members should obey all laws applicable to their official actions. Board Members should be guided by the spirit as well as the letter of the law in whatever they do.

At the same time, Board Members should feel free to assert policy positions and opinions without fear of reprisal from fellow Board members or citizens. However in doing so, Board Members:

- (a) shall be mindful that they were appointed by the Mayor or City Council, or by another appointing authority to a City Board, Committee, or Commission and, therefore, if they are advising or advocating a position that is contrary to a Council policy, that they notify the Mayor and Council of such as soon as practicable;
- (b) who serve in an advisory capacity shall be mindful that their chief responsibility is to advise the Mayor and Council or other decision-making body rather than to advocate to the public at large, particularly when the position of advocacy is contrary to a Council policy;
- (c) shall understand that they hold a position of trust on behalf of the City and its citizens; and
- (d) shall assert policy positions and opinions on matters within or related to the jurisdiction and subject matter of the body on which they serve only through the transparency of official proceedings of the body or in a capacity and manner appropriate for a member of such body. Board Members shall not represent their individual views as being representative of the full body unless they have been formally authorized by the body to do so.

These guidelines are especially important to Chairpersons who must recognize that they are often viewed as speaking for the body.

To declare that a Board Member is behaving unethically because one disagrees with that official on a question of policy (and not because of the council member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

Section 2.

Board Members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values
- Exhibiting trustworthiness
- Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others
- For Board Members who act in a quasi-judicial capacity, disclosing contacts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves
- Treating other Board Members and the public with respect and honoring the opinions of others even when the board members disagree with those opinions
- Showing respect for their offices and not behaving in ways that reflect badly on those offices
- Recognizing that they are part of a larger group and acting accordingly
- Recognizing that individual Board Members are not generally allowed to act on behalf of the body but may only do so if the body specifically authorizes it, and that the body must take official action as a body

Section 3.a.

Board Members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach and they should not use their official position for personal gain. Although opinions may vary about what behavior is inappropriate, the Council will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the Board Member's action would conclude that the action was inappropriate.

Section 3.b.

If a Board Member believes that his or her actions, while legal and ethical, may be misunderstood, the official should seek the advice of the City Attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the attorney).

Section 4.

Board Members should faithfully perform the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

Board Members should faithfully attend and prepare for meetings.

Board Members should be willing to bear their fair share of the body's workload. To the extent appropriate, they should be willing to put the City's interests ahead of their own.

Section 5.

Board Members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to them or City employees.

In order to ensure strict compliance with the laws concerning openness, the Mayor and Council members have made it clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should take deliberate steps to make certain that any closed sessions held by the body are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

HARASSMENT POLICY

Section 1.

The City Council will not tolerate or condone acts of harassment by the Mayor, Council members, or members of City boards, committees and commissions, based upon race, religion, color, sex, national origin, sexual orientation, age, disability, or political affiliation.

Section 2.

Violators of this policy will be subject to appropriate disciplinary action as set forth in the policy. This portion of the policy is applicable to those serving on advisory boards, committees or commissions.

Definitions

Harassment is verbal or non-verbal conduct or physical acts which are unwelcome or offensive to or retaliatory against an employee or group of employees based on their race, religion, color, sex, national origin, sexual orientation, age, disability or political affiliation and which:

- A. Affects an employee's conditions of employment, or
- B. Interferes with an employee's ability to perform his or her job, or
- C. Creates an intimidating or hostile work environment.
- D. Examples of acts which may constitute harassment are:

Slurs and epithets; offensive jokes or statements; threats; derogatory pictures/materials/articles displayed on bulletin boards or in work areas; derogatory graffiti; segregating facilities (such as break rooms, bathrooms, eating areas, work stations) based on race, sex, national origin, color, religion, age, or disability; physical violence intended to harass, intimidate or discourage employees from pursuing complaints; retaliatory acts based on an employee having filed a charge of discrimination.

Sexual Harassment is **unwelcome** verbal, non-verbal or physical advances of a sexual nature or non-sexual hostile or physically aggressive behavior directed to an employee because of such employee's sex, which:

- A. Affects an employee's conditions of employment; or
- B. Interferes with an employee's ability to perform his or her job; or
- C. Creates an intimidating or hostile work environment.
- D. Examples of acts which may constitute sexual harassment are:

(1) Verbal - Referring to an adult as "girl", "hunk", "doll", "beefcake", "babe", "studmuffin", "honey", or "sweetie"; whistling or catcalling; sexual comments or innuendoes; sexual jokes or stories; making sexual comments about a person's clothing, body; recounting one's sexual exploits or asking about sexual fantasies, preferences or history; repeatedly asking a person for a date after being

turned down; starting or spreading rumors about the sex life of a person; making kissing sounds, howling or smacking lips; threats.

(2) Nonverbal – Blocking a person’s path; following the person; making sexual gestures; making facial expressions.

(3) Physical - Hugging, kissing, patting, stroking, pinching or grabbing; rubbing oneself sexually around another person; brushing against a person; touching the person's clothing, hair or body; giving a massage around the neck or shoulders; revealing parts of the body in violation of common decency; physically forcing sexual activity on someone ranging from assault to rape.

(4) All of the conduct listed in Examples 1, 2, and 3 which are directed to an employee by a non-employee in the workplace, i.e., contractors or vendors who may do business with or for the City.

(5) Employment opportunities or benefits granted by a supervisor to his/her employee because such employee submits to the supervisor's advance.

Hostile Environment means a workplace that has become intimidating or offensive due to conduct of employees which is threatening in nature.

Complaints

Any employee who believes that he or she has been the target of harassment by the Mayor, a Council member, or a member of a City board or commission should inform their supervisor, their department head, the City Manager, the City Attorney, or Human Resources. In the event that the person receiving the information is not the City Manager, the person receiving the information shall promptly notify the City Manager.

1. Upon being notified of a complaint, the City Manager shall notify the Mayor or, if the complaint is against the Mayor, the Mayor Pro Tempore. If the complaint is an informal complaint, the City Manager and Mayor (or Mayor Pro Tempore) may meet with the person whose conduct is the subject of the complaint to inform the person of the complaint and to discuss the need for the person to adjust or correct his or her conduct. If appropriate, the results of this meeting may be reported to the complaining employee.
2. A formal complaint (and an informal complaint that the City Manager decides to handle as a formal complaint) shall be investigated and subject to sanctions.

Sanctions

Following the completion of an investigation of an allegation against a member of a City board or commission conducted pursuant to Section 2, the City Council may sanction the member who was the subject of the investigation. Potential sanctions include removal of the member, adoption of a Resolution of Censure, and any other lawful sanction within the Council's power.

ACKNOWLEDGEMENT OF RECEIPT OF HANDBOOK FOR CITIZENS SERVING ON CITIZEN BOARDS, COMMITTEES, AND COMMISSIONS

On the date written below, I received the “Handbook for Citizen Board and Commission Members—A Guide for Citizens Appointed by the Mayor and City Council.” I acknowledge this handbook contains basic information related to serving as a volunteer on a board or commission as well as specific policies as shown below:

- Attendance Policy
- Code of Ethics Policy
- Anti-Harassment Policy

I understand that I am responsible for reviewing the contents of this handbook and asking questions if I do not understand any part of it.

DATE: _____

NAME: _____

BOARD OR COMMISSION: _____

SIGNATURE: _____

(A signed copy of this form will be maintained in the City Clerk’s Office with the application once appointed to serve.)

September
2013

Citizens Review Board Task Force Recommendations

Response to Request from the Council-Manager Relations Committee



**CRB Process Task Force
Community Relations Committee
Citizens Review Board**



At the August 19, 2013 meeting of the City of Charlotte Council-Manager Relations Committee, the CRB Process Task Force was asked to provide its recommendations in addition to the stakeholder feedback report it compiled. That feedback report is a separate document; what follows in this document are the requested recommendations from the CRB Task Force.

- Maintain the appellate structure of the Citizens Review Board (CRB) with no subpoena power or independent investigative responsibilities.
- Promote the availability of advocates who would assist citizens through the Internal Affairs investigative process and the CRB appeal process, including legal representation, if requested, from organizations such as the Mecklenburg County Bar Volunteer Lawyer Program.
- Extend the time a person has to file an appeal to the CRB from the current 7 days to 21 days.
- Change the standard of review to hold a full hearing from “a preponderance of the evidence” of an “abuse of discretion” to “substantial evidence that an error occurred in the investigation of the citizen’s complaint or the disciplinary decision concerning the officer.”
- Allow the CRB the option to have the accused officer(s), against whom a complaint has been filed, present at the initial meeting of the board if a majority of the board determines that the officer’s presence would be helpful.
- Increase the number of days that the CRB is required to hold a meeting after receiving an appeal from the current 30 days to 45 days – this will also allow an accused officer more time to be present if requested by a majority of the board.
- Require the CRB to provide information, in writing, to complainants on the reasons their appeal was denied or did not result in a hearing by the board, as long as such information is provided in accordance with applicable local and state law.
- Increase the visibility of the CRB by establishing a CRB website that would include, but not be limited to: the CMPD Annual Internal Affairs Report; CRB meeting minutes; Spanish and other language publications; a flow chart of the IAD and CRB processes; the CRB ordinance; definitions of CRB terms; the CRB appeal form in a format that may be completed electronically; a CMPD/IAD complaint form in a format that may be completed electronically; and board members’ names, occupation, appointing authority, and their term of appointment.
- Use the Government Channel, local electronic and print media and other communication tools (such as through neighborhood associations, churches and non-profit organizations) to educate

the community on the CRB process, including the way police complaints are received and adjudicated. Include town hall and community meetings to educate citizens on the CRB process.

- Improve the CRB appeal form by providing more space (lines) on the form so that complainants may have adequate space to give more detail (rationale) on their request for an appeal.
- Provide legal, policy and cultural awareness training for current and future CRB appointees.
- CRB members should have the opportunity to request approval of the City Council to make recommended changes to the CRB process when a majority of the members feel it is necessary.



CHARLOTTE
COMMUNITY RELATIONS

CRB Process Recommendations

CRC / CRB Task Force Recommendations
Citizens Review Board Appeal Process

September 23, 2013



On April 1, 2013 Mayor Anthony Foxx & City Council asked staff to gather community feedback regarding Citizens Review Board (CRB) appeal process.

Council's request was made as a result of community concern that:

- *Citizens appealing police disciplinary decisions had to meet an unusually high standard of evidence for CRB to hold a full hearing – a “preponderance of the evidence” (more evidence than not) establishes that CMPD Chief or Internal Affairs abused their discretion in imposing discipline against police officers.*
- *In 78 instances where citizens had appealed a decision to CRB, only four cases made it to the next step of a full hearing & in each of those cases CRB ruled in favor of police.*
- *CRB has no independent power to investigate, nor does it have subpoena power*

To address council's directive, a Task Force (TF) of 7 members of the Char-Mecklenburg Community Relations Committee (CRC) & 5 members of the CRB, was created to gather community feedback requested by Council.

CRC/CRB TF identified key groups of stakeholders & scheduled meetings to receive feedback/suggestions to change/improve the CRB process.

- *Charlotte School of Law*
- *CMPD Focus Group*
- *Public Meeting*
- *Public Meeting – Beatties Ford Road Library – July 11, 2013*
- *Coalition for a Stronger CRB Process – July 12, 2013*

CRC/CRB Task Force Presentation to Council Manager Relations Committee On August 19, 2013

- How the IA, CSB and CRB are interconnected. – *Cam Selvey*
- Appeals to the CRB that resulted in a lawsuit. – *Bob Hagemann*
- CRC/CRB Task Force Recommendations – *Patricia Albritton*

- Office of the Chief
- One Major
- One Captain
- Seven Sergeants
- Two Support Staff

- Conduct thorough and impartial investigations of alleged employee misconduct
- Provide proactive measures to prevent misconduct
- Identify potential problem behavior at its earliest stages
- Monitor trends in behavior and make recommendations for training, policy changes, etc.

- 40 rules of conduct
- Serious allegations of misconduct investigated by Internal Affairs
- Less serious allegations investigated by chain of command
- All complaint allegations are investigated

IA Level Hearings

	Rule of Conduct	Review Level	Investigation Level
4	Insubordination	ICOC Review Board	Internal Affairs
5	Unsatisfactory Performance	ICOC Review Board	Internal Affairs
6	Unbecoming Conduct	ICOC Review Board	Internal Affairs
7b	Residence/Telephone Requirement	ICOC Review Board	Internal Affairs
12	Labor Activity	ICOC Review Board	Internal Affairs
13	Political Activity	ICOC Review Board	Internal Affairs
14	Conformance to Laws	ICOC Review Board	Internal Affairs
15	Associations	ICOC Review Board	Internal Affairs
16	Visiting Prohibited Establishments	ICOC Review Board	Internal Affairs
17	Use of Alcohol on Duty or in Uniform	ICOC Review Board	Internal Affairs
18	Possession and Use of Drugs	ICOC Review Board	Internal Affairs
22	Abuse of Position	ICOC Review Board	Internal Affairs
23	Gifts and Gratuities	ICOC Review Board	Internal Affairs
24	Public Statements and Appearances	ICOC Review Board	Internal Affairs
27	Use of Weapons	ICOC Review Board	Internal Affairs
28	Use of Force	ICOC Review Board	Internal Affairs
29	Arrest, Search, and Seizure	ICOC Review Board	Internal Affairs
30	Intervention	ICOC Review Board	Internal Affairs
31	Improper Use of Property and Evidence	ICOC Review Board	Internal Affairs
32b	Use of Department Equipment	ICOC Review Board	Internal Affairs
35	Participation in Administrative Investigations	ICOC Review Board	Internal Affairs
38	Truthfulness	ICOC Review Board	Internal Affairs
39	Harassment	ICOC Review Board	Internal Affairs



How Do We Take Complaints?

- Telephone
- In Person
- Email
- Letter
- Media
- Other Agencies
- Anonymous



- Situations involving criminal activity are also investigated by the Criminal Investigations Bureau.
- These cases may be reviewed with the District Attorney's Office for prosecution.
- Information gathered in a criminal investigation is always shared with Internal Affairs.

Administrative Investigations and Hearings

- Administrative investigations relate to an employee's job performance or ability to perform assigned tasks
- Hearings in Internal Affairs are administrative in nature to determine whether or not policy or procedure was violated.
- Officers are compelled to give a statement to Internal Affairs. The officer can not refuse to answer and they can not have an attorney present. Compelled statements cannot be used to incriminate an employee for criminal activity
- Internal Affairs investigations and dispositions are personnel records and are subject to personnel privacy laws.

- All IA level investigations are adjudicated by an Independent Chain of Command Review Board, **not** Internal Affairs
- Independent Chain of Command Review Board
 - Major (12 available for boards)
 - Captain (36 available for boards)
 - Lieutenant (43 available for boards)
 - Sergeant (140 available for boards)
 - Community Relations Committee Member
 - Peer (optional)
- An employee's resignation does not prevent the Board from rendering a decision concerning the allegation.

Shooting Review Boards

- The Shooting Review Board is a permanent board and the members of the board are determined by their assignment in the Department
- Independent Chain of Command Review Board for Shootings
 - Major – Property and Evidence Section
 - Captain – Communications Division
 - Captain – Training Academy
 - Sergeant – Training Academy Firearms Range Master
 - Community Relations Committee Member
 - Peer (optional)

- There are four possible adjudications to an allegation:
 - **Sustained** – The investigation disclosed sufficient evidence to prove the allegation.
 - **Not Sustained** – The investigation failed to disclose sufficient evidence to prove or disprove the allegation.
 - **Exonerated** – The actions described in the complaint occurred, but were deemed lawful and justified by policy.
 - **Unfounded** – The allegation is false.



Discipline Philosophy

- **Consistency vs. Fairness**
- Consistency-holding everyone equally accountable for unacceptable behavior
- Fairness-understanding the circumstances contributing to the behavior
- The Disciplinary Philosophy considers
 - Employee Motivation
 - Degree of Harm
 - Employee Experience
 - Intentional/Unintentional Errors
 - Employee's Past Record

- Counseling and/or Training
- Written Reprimand
- Active Suspension
- Inactive Suspension
- Termination
- Combinations



- **Community Relations Committee**
 - A City of Charlotte Department, independent of CMPD.
 - A staff member reviews every case scheduled for an Independent Board, and participates in the adjudication process.
- **Civil Service Board**
 - Seven member board: 3 Mayor appointees and 4 City Council.
 - Final authority for all hiring, promotion, demotion, and termination.
 - Also hears officer-initiated appeals of suspensions without pay.
- **Citizen's Review Board**
 - Eleven member board: 3 Mayor appointees, 5 City Council, 3 City Manager
 - Hears appeals from complainants about four specific types of cases:
 - Unbecoming Conduct, Improper Use of Force, Unauthorized Arrest/Search/Seizure, Discharge of firearm resulting in personal injury or death.

Civil Service Board Eligible Cases

- **Over the past ten years, 38 officers have appealed cases to the Civil Service Board**
- **26 Cases were for Termination**
 - 12 terminations were upheld (7 CRB category cases)
 - 14 terminations were overturned with three officers being given suspensions instead (8 CRB category cases)
- **12 Cases were for Suspension**
 - 10 suspensions were upheld (7 CRB category cases)
 - 2 suspensions were overturned (0 CRB category cases)



- Appeal must be filed with the CRB within 7 days of receiving written notice from CMPD
- Four types of cases
 - Unbecoming Conduct
 - Improper Use of Force
 - Unauthorized Arrest, Search or Seizure
 - Discharge of Firearm resulting in Injury of Death



CRB Cases By Year and Type

Year	CRB Cases	Unbecoming Conduct	Arrest Search and Seizure	Use of Force	Discharge of Firearm
1998	7		2	5	
1999	8		4	3	1
2000	5	1	2	2	
2001	13	2	3	8	
2002	7		2	4	1
2003	2			2	
2004	4		3	1	
2005	6		1	4	1
2006	4		1	1	2
2007	10	2	3	5	
2008	4		1	2	1
2009	1		1		
2010	2	1		1	
2011	4	2		1	1
2012	1				1
2013	1			1	
Total	79	8(10%)	23(29%)	40(50%)	8(10%)

CRB Reviewable Case Totals

CRB Reviewable Cases from 1998 to September 18, 2013

Year	Ext.	Int.	Total Cases	CRB Cases	Sustained	Corrective Action			Total Employees			Shootings Justified	Shootings Not Justified
						Active Hours	Inactive Hours	Cited for term. or resigned	Not Sustained	Exonerated	Unfounded		
1998	48	8	56	7	19	904	116	8	14	41	3	6	0
1999	40	12	52	8	24	976	280	10	28	25	3	1	0
2000	48	13	61	5	25	840	280	6	35	23	3	6	0
2001	87	18	105	13	30	496	256	3	83	37	27	10	1
2002	71	30	101	7	26	2520	200	6	83	19	9	2	0
2003	52	23	75	2	28	1720	168	2	60	21	4	4	0
2004	52	20	72	4	25	1128	120	4	71	19	0	2	0
2005	81	33	114	6	56	2024	624	6	107	19	5	4	2
2006	74	43	117	4	42	1088	584	6	107	12	9	6	0
2007	88	32	120	10	35	504	328	5	109	12	9	4	0
2008	34	34	68	4	39	544	136	10	34	15	13	7	1
2009	43	36	79	1	34	1840	144	8	42	9	7	0	0
2010	45	36	81	2	54	2104	168	10	39	19	5	8	0
2011	56	42	98	4	61	2360	104	13	40	17	5	3	0
2012	20	43	63	1	52	1880	392	11	24	10	10	4	0
2013	37	25	62	1	14	912	48	7	8	5	7	1	0
Totals	876	448	1324	79	564	21840	3948	115	884	303	119	68	4

Three cases that
went through the
CRB and then into
civil litigation.



Legal Constraints



Subpoena Power

Independent Investigations

Transparency



At the August 19, 2013 meeting of the City of Charlotte Council-Manager Relations Committee, the CRC/CRB Process Task Force was asked to provide recommendations regarding the Citizens Review Board process, at the September 23, 2013 meeting of the Committee.

1. Maintain the appellate structure of the Citizens Review Board (CRB) with no subpoena power or independent investigative responsibilities.
2. Promote the availability of advocates who would assist citizens through the Internal Affairs investigative process and the CRB appeal process, including legal representation, if requested, from organizations such as the Mecklenburg County Bar Volunteer Lawyer Program.
3. Extend the time a person has to file an appeal to the CRB from the current seven days to twenty-one days.



4. Change the standard of review to hold a full hearing from “a preponderance of the evidence” of an “abuse of discretion” to “substantial evidence that an error occurred in the investigation of the citizen’s complaint or the disciplinary decision concerning the officer.”

5. Allow the CRB the option to have the accused officer(s), against whom a complaint has been filed, present at the initial meeting of the board if a majority of the board determines that the officer’s presence would be helpful.

6. Increase the number of days that the CRB is required to hold a meeting after receiving an appeal from the current 30 days to 45 days – this will also allow an accused officer more time to be present if requested by a majority of the board.

7. Require the CRB to provide information, in writing, to complainants on the reasons their appeal was denied or did not result in a hearing by the board, as long as such information is provided in accordance with applicable local and state law.



8. Increase the visibility of the CRB by establishing a CRB website that would include, but not be limited to: the CMPD Annual Internal Affairs Report; CRB meeting minutes; Spanish and other language publications; a flow chart of the IAD and CRB processes; the CRB ordinance; definitions of CRB terms; the CRB appeal form in a format that may be completed electronically; a CMPD/IAD complaint form in a format that may be completed electronically; and board members' names, occupation, appointing authority, and their term of appointment.

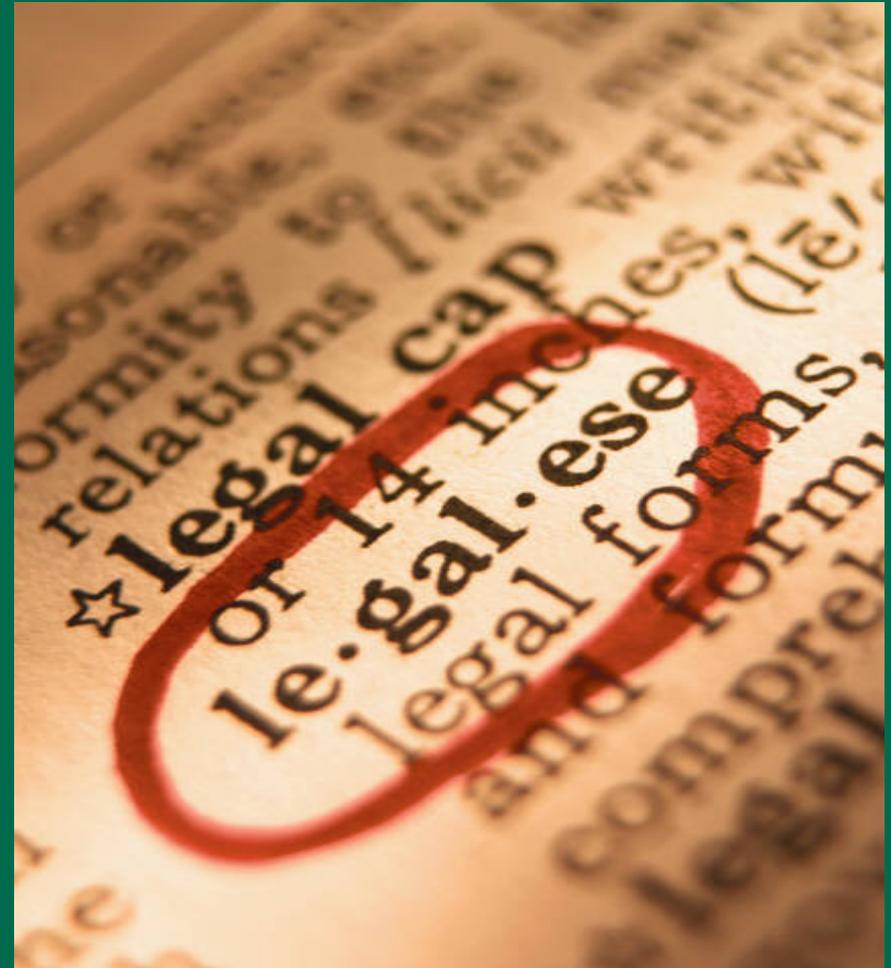
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10. Improve the CRB appeal form by providing more space (lines) on the form so that complainants may have adequate space to give more detail (rationale) on their request for an appeal.



11. Provide legal, policy and cultural awareness training for current and future CRB appointees.

12. CRB members should have the opportunity to request approval of the City Council to make recommended changes to the CRB process when a majority of the members feel it is necessary.



Questions?



