



Charlotte City Council
**Council-Manager
Relations Committee**
Meeting Summary for October 28, 2013

COMMITTEE AGENDA TOPICS

- I. **Subject:** **Citizens Review Board**
 Action: Accept the recommendations made by the City Manager and move to Council for adoption as mollified by Committee. *Motion passed unanimously.*
- II. **Subject:** **Council Retreat Locations**
 Action: Asked staff to further investigate location options and bring a recommendation back to the next meeting.
- III. **Subject:** **Next Meeting Date**
 Monday, November 25 at 11:45 a.m. in Room 280

COMMITTEE INFORMATION

Present: Council member Warren Cooksey, Mayor Patsy Kinsey, Council member James Mitchell and Council member David Howard
Time: 11:45 a.m. to 1:15 p.m.

ATTACHMENTS

1. Agenda Package
2. 2014 Council Retreat Accommodations Comparison

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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 except for those at the table. He then reviewed the agenda.

I. Citizens Review Board

Council member Cooksey immediately turned the meeting over to the City Manager for opening comments.

Mr. Carlee began by thanking all the parties involved in the process; he reiterated the importance of this issue; he reminded the audience that police play a special role in ensuring a safe and free society and noted that the ability of the police to do their jobs is dependent on society's ability to trust the police and the ability of police to trust society. He noted that every day the men and women of the police department literally put their lives on the line to ensure we have a safe and free society. Most of us would never have the patience and skill to last one day on the street. Officers are expected to respond to every incident with professionalism.

Mostly they get it right, but sometimes they don't. Sometimes there are police officers not suited for the job and sometimes there are bad people who do bad things. There must be adequate procedures in place for holding police accountable to the highest standards of professionalism and weeding out people who should not be police officers. No one understands that more than the Police Chief and the officers themselves.

The Citizens Review Board is a mechanism to promote trust, but it is not the only one. There are local, state and federal prosecutors, state and federal bureaus of investigation, US Department of Justice and civil actions of the courts.

The Citizens Review Board is effectively a direct extension of the City Manager's office, providing additional capacity and perspective for investigating citizen complaints. The Police Chief understands these issues and thinks there are improvements that could and should be made.

Mr. Carlee then suggested reviewing the "clean" version of the ordinance [copy attached].

16-56: add cultural awareness training.

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Council member Howard asked what that meant exactly. Mr. Carlee said that is about understanding different cultures. Charlotte has a diverse community racially, ethnically, religiously and they all approach police differently. There are some more fundamental things that can be included in the training beyond understanding race and income. Council member Howard said he was hoping that meant adding a more international touch. He also said he would like to see the curriculum because it is more than sensitivity training; it's cultural. Council member Cooksey added that it would be good to ensure the Citizens Review Board was exposed to CMPD training. Could that be an added expectation of board members?

16-58: (a) (3) empowers the Citizens Review Board to look more broadly and bring recommendations to the Police Chief.

16-59: the core recommendation here is to make a better process. We recommend the form be revised to include more explanation; the basis for filing the appeal, encouraging citizens to go to Community Relations for assistance in drafting the appeal and extending the period to file to 30 days.

Council member Howard asked if we are offering staff help to try and screen people? Should there be a disclaimer that it doesn't replace legal assistance? Mr. Carlee responded that it is truly to help the citizen, but also to make sure the appeals are not frivolous. It is to assist with legitimate grievances. Citizens are free to involve anyone else in the process. They should use whomever they feel comfortable with.

16-59 (c): provides the Citizens Review Board with all of the Internal Affairs files.

16-60: legitimate complaints will result in a hearing. At the initial hearing, the case will be presented; the Board will conduct deliberations and can engage whatever they need to make a decision; they will determine whether to uphold the decision or determine a substantial error occurred. This parallels the recommendation by the Task Force for using a preponderance of evidence to abuse of power. If there is enough information to suggest an error, then they will look at everything in more detail.

Council member Mitchell asked if full access to the prepared file is the complete file from Internal Affairs. Mr. Carlee responded affirmatively; it is the entire file.

16-60 (e): the ability to hold additional proceedings extended 45 days.

16-60 (f): one change made to the existing language is the board will hear from the complainant and the department. The officer has been removed. The hearing is not against the officer; but determining whether the department made the right

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decision. The officer can be a witness, but the question is did the department make the right decision.

Council member Howard noted that was an important point.

Mr. Carlee continued that the action by the Citizens Review Board is a recommendation back to the Chief. The other avenue of appeal is the Civil Service Board. Council member Howard noted that was a distinct difference as the Civil Service Board makes the decision in disciplinary situations; that decision cannot be overturned by the Police Chief or City Manager.

16-60 (h): added complainants will be notified in writing of the decision.

16-64: [(b) – (e) are new] (b) the Police Department will file a report with the Citizens Review Board giving a micro view of the individual complaints; (c) the Citizens Review Board can recommend changes to City Council to provide ongoing monitoring and review; (d) recommends promoting more visibility in the community; and (e) reiterates the importance of cultural training.

Council member Howard suggested that it would be helpful for the Committee to receive the Citizens Review Board's annual report for the next couple of years [assuming it goes to Community Safety annually now]. He felt that since the recommendations were coming from this Committee; there was extra sensitivity. Council member Cooksey asked if he realized that would be compelling future committees to talk about the report. Council member Howard said he thought it would be good for at least the next two years for this Committee to monitor the changes.

Mr. Carlee said recommendations presented today should make the review process more understandable and fairer thanks to the work of the Task Force and all interested parties.

Will these changes result in more findings for complainants and against the department? Mr. Carlee said he expects every officer in the police department to always demonstrate the highest levels of professionalism and integrity and never violate any of the 40 rules of conduct; he expects the Chief, command structure and Internal Affairs to take every complaint seriously, investigate it thoroughly and to take appropriate action. Simply – he expects everyone to tell the truth and do the right thing.

The Citizens Review Board, provides a valuable check, a way to verify trust and if we miss something, to catch and fix it.

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Council member Mitchell added his thanks to Willie Ratchford as well as the Task Force; other staff and citizens as the information has been extremely helpful. Trust and verify – key.

Council member Cooksey asked if there were other questions or comments? Since there were none, he said that he would suggest in 16-58 (a) some structural changes be made. 1) is a verb; 2) is a verb; 3) verb doesn't fit in structure; and 4) is a verb. It would be helpful to change that to make it flow better.

Council member Mitchell made a motion to accept the recommendations made by the City Manager and move to Council for adoption as mollified by Committee. Howard second.

Council member Mitchell added to Council member Howard's point about the annual report that it is critical Council stay involved and review this issue especially since some members of this Committee won't be here.

Council member Howard asked members of the Task Force in the audience to raise their hand to be acknowledged and publically thanked them for their work.

Council member Cooksey added his appreciation. He noted that the Citizens Review Board has had the least number of issues since it was created; most are settled via Risk Management because there are many different avenues for citizens to address their concerns. More people choose other routes.

Council member Howard then publically thanked Matt Newton and Council member Mitchell thanked Robert Dawson.

Council member Cooksey then called for final comments and the vote.

Motion passes unanimously (4-0).

II. Council Retreat Locations

Carol Jennings reminded the Committee the annual retreat [scheduled January 29-31, 2014] would be out of town this year. Staff needs to determine the location before working on the agenda. The Committee was provided a handout of location options [copy attached].

The most viable options are 1) Holly Inn, Pinehurst; 2) Mid Pines Resort, Pinehurst; and 3) The Graylyn, Winston-Salem. The Committee was asked for other suggestions.

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Council member Mitchell suggested yielding to the two members staying on Council.

The Committee and staff discussed the importance of the location being far enough away that folks are able to focus on being at the Retreat. Some locations are too close to not come back to Charlotte for work. Council member Cooksey said distance and atmosphere are key things.

Council member Howard asked if they would have an opportunity to meet the facilitator. Ms. Jennings advised this would be back on the November 25 committee agenda for further discussion. To date no facilitator has been chosen.

Mr. Carlee said that relationship building would be critical and he hoped to come out of the retreat with strong consensus on strategic issues. Two years is a very short amount of time.

Council member Mitchell added that it will be critical to be clear about the CIP, the timeline, especially with new council members and that it is important to be a team. Council member Cooksey noted that it's important for the new Council to understand what they are inheriting. Nothing in the CIP will be enacted in their term of office. Those are scheduled for 2014 bonds.

Mayor Kinsey said it will be very important to make a location decision at the next meeting because time is of the essence.

Staff will spend time looking at the three locations to bring back recommendations to the next meeting.

III. Hot Topic

The Mayor said that the Boards & Commissions application does not tell Mayor and Council much about the individual. Is there a way to beef up the application? If that needs to be referred to Committee; then please do so. Council member Cooksey said that the former Restructuring Government Committee started to look at that previously and suggested that another idea is to get Council members to sign off on the nomination.

IV. Next Meeting Date

Monday, November 25 at 11:45 a.m. in Room 280

Meeting Adjourned

Council-Manager Relations Committee

Monday, October 28, 2013 – 11:45 a.m.

****Room 267****

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

AGENDA

I. Citizens Review Board

Staff Resources: Ron Carlee, Eric Campbell, Willie Ratchford, Bob Hagemann

Action: Make a recommendation to City Council to approve the amendments to the Citizens Review Board Ordinance.

Attachments

II. Council Retreat Locations

Staff Resources: Carol Jennings, Kim Oliver

Action: Discuss possible locations for City Council Retreat.

III. Next Meeting Date

Monday, November 25, 2013 at 11:45 a.m. in Room 280



**CITY MANAGER'S OFFICE
M E M O R A N D U M**

October 25, 2013

TO: Council-Manager Relations Committee

FROM: Ron Carlee, City Manager 

SUBJECT: Proposed Citizens Review Board Ordinance Amendments

On April 1, 2013, the City Council requested that the Council-Manager Relations Committee review the current Citizens Review Board ("CRB") ordinance. As a part of that review, a task force including members of the Charlotte-Mecklenburg Community Relations Committee and the Citizens Review Board formed to gather feedback from the community regarding the CRB process.

On September 23, 2013, the Citizens Review Board Process Task Force reported its findings and recommendations, and this committee requested the City Manager's review and perspective of the same. Attached is a recommended ordinance amendment. The amendment is drawn from a review of the task force report and the full record related to their work. The recommendation was developed in consultation with the Attorney's Office, Charlotte-Mecklenburg Police Department, Community Relations staff, and others.

The recommended changes are based on the important concept that the Citizens Review Board appeal process is and should remain an administrative review of personnel decisions made by the chief of police; this is consistent with a recommendation of the task force that the Citizens Review Board maintain its appellate structure. Other proceedings, civil or criminal litigation as well as the Civil Service Board remain available to the public and to police officers.

Based on this concept, recommended ordinance amendments would make these changes:

- Increases citizen access to the Citizens Review Board process by extending the time a person has to file an appeal from 7 days to 30 days.
- Changes the standard of review to hold a full evidentiary fact-finding proceeding from "a preponderance of the evidence" of an "abuse of discretion" to "substantial evidence of error" regarding the disposition of the disciplinary charges entered by the chief of police.
- Changes the standard at the end of the evidentiary fact-finding proceeding from "a preponderance of the evidence" that the decision of the chief constituted an "abuse of

discretion” to a standard that “the greater weight of evidence” indicates that “the chief of police clearly erred”.

- Codifies the current practice that the Citizens Review Board process is not intended to supplant civil, criminal, nor civil service board proceedings.

In addition to the substantive proposed amendments outlined above, other changes in the draft ordinance amendments are intended to enhance the procedural operations of the Citizens Review Board consistent with task force recommendations or as deemed appropriate to align the ordinance with the proposed substantive amendments.

This matter is before the committee on its Monday, October 28th meeting. I look forward to discussing these proposals with you at such time. I want to express my thanks to the many people who provided input into this process, especially the task force. Without their thorough compilation of ideas and their recommendations, it would not have been possible to reach the recommendation provided herein. Also, special thanks are due to the Citizens Review Board attorney, Julian Wright for his feedback on the final draft.

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[Sec. 16-57. -Meetings.](#)

[Sec. 16-58. -Duties and responsibilities.](#)

[Sec. 16-59. -Appeal procedureRequest for appeal hearing.](#)

[Sec. 16-60. -Necessity for hearingHearing.](#)

[Sec. 16-61. -Hearing proceduresReserved.](#)

[Sec. 16-62. -Action by chief of police and city manager.](#)

[Sec. 16-63. -City clerk's duties; meeting places; staff.](#)

[Sec. 16-64. -ReportsMiscellaneous.](#)

Sec. 16-56. - Creation; composition; terms; compensation; appointments; vacancies; quorum; removal.

- (a) There is hereby established a citizens review board to be composed of 11 members: five members to be appointed by the city council, three members to be appointed by the mayor and three to be appointed by the city manager. The appointing authorities shall ensure that the members of the board are representative of the community.
- (b) Members must be continually domiciled within the county and must be registered to vote within the county.
- (c) Board members shall attend and successfully complete the Charlotte-Mecklenburg Police Department's Citizens' Academy and receive training on relevant legal ~~and~~, policy and cultural awareness issues as required by the city manager. This training must be completed prior to any board appointee serving as a member of the board.
- (d) Individuals with a felony conviction or a class A1 misdemeanor conviction shall not be eligible to serve on the board. In addition, individuals with a class 1 or class 2 misdemeanor conviction within three years of their nomination for appointment shall be ineligible to serve. Further, conviction of or a plea of nolo contendere to a felony, a class A1 misdemeanor, a class 1 misdemeanor, or a class 2 misdemeanor during the term of office shall automatically terminate membership on the board, irrespective of any appeals. Board members charged with a felony, a class A1 misdemeanor, a class 1 misdemeanor, or a class 2 misdemeanor during a term of office shall be automatically suspended until disposition of the charge, and a quorum shall be established from the remaining membership.
- (e) Prior to serving, each board member must sign a confidentiality agreement that is satisfactory to the city and which shall require that members maintain as confidential any information classified as confidential by state law or otherwise classified as confidential by the city.
- (f) The members shall serve staggered terms of office for three years, with no member serving more than two consecutive terms.
- (g) The board shall elect a chairperson and vice-chairperson from the membership.

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- (h) When a vacancy occurs, the original appointing authority shall appoint a person to serve for the unexpired term of the vacant position.
- (i) Six members shall constitute a quorum in order to hold business meetings and hearings. Members are required to attend all business meetings and hearings in accordance with the attendance policies promulgated by the city council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section.
- (j) All members shall serve without compensation.
- (k) Members of the board shall be subject to removal from office by a two-thirds vote of the city council.

~~(Code 1985, § 16-34)~~

Sec. 16-57. - Meetings.

- (a) The citizens review board shall hold regular meetings as scheduled by resolution of the board. The affirmative vote of a majority, a quorum being present, shall be required before any recommendation is made on any matter considered. A majority vote shall be required for any decision made by the board.
- (b) Special meetings may be called by the chairperson to carry out any duties described in section 16-58 by giving each member notice in writing, by providing personal notice, or by leaving notice at the member's residence not less than 72 hours prior to the time set for the meeting.

~~(Code 1985, § 16-35; Ord. No. 2344, § 1, 7-28-2003)~~

Sec. 16-58. - Duties and responsibilities.

- (a) The citizens review board shall:
 - (1) Serve as an advisory board to the chief of police, the city manager, and the city council.
 - (2) ~~Review~~Hear appeals by the citizens who filed complaints of disciplinary dispositions imposed by the chief of police or his designee relating to allegations of misconduct against a sworn police officer. The board may hear appeals of complaints regarding alleged violations of the following rules: use of force, unbecoming conduct, and arrest, search and seizure. In addition, the disposition of the review of any discharge of a firearm by an officer which results in the death or injury of a person may be appealed to this board by the person injured or the next of kin if death occurs. When a death results and there is no next of kin, any member of the city council or the chairperson of the community relations committee may file an appeal pursuant to section 16-59. The disciplinary actions that may be reviewed shall include the findings of the chief of police that an allegation has been categorized as: sustained, not sustained, exonerated, or unfounded. The dispositions that may be reviewed for the discharge of firearms shall include: justified, not justified, or accidental. The board may review only appeals of citizen complaints arising from incidents that occur after the effective date of the ordinance from which this section derives. The board may not review appeals of decisions of the city manager or the civil service board. No hearing conducted under this division is intended to supplant civil or criminal remedies or proceedings, nor civil service proceedings under section 4.61 of the city charter.
 - (3) ~~Determine whether to hold an appeal hearing. The board may hold an appeal hearing only when it appears, based upon a preponderance of the evidence, that the disposition of the disciplinary charges entered by the chief of police constituted an abuse of, in its discretion by the chief of police.~~

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~~(4) Conduct appeal hearings, which include receiving and evaluating testimony and issuing findings of fact and, also may make recommendations to the chief of police and the city manager. The duty and power of the board is to conduct an appeal hearing and to determine whether, by a preponderance of the evidence, the chief of police abused his discretion by:~~

~~a. Finding in a disciplinary action that allegations were sustained, not sustained, exonerated concerning policies, procedures or unfounded; or training of police officers.~~

~~b. Finding in connection with the discharge of a firearm that the officer's action was justified, not justified, or accidental.~~

~~(5)(4)~~ As required by state law, maintain as confidential all personnel information to which the members gain access as a member of the board. In addition, board members shall be required to execute and adhere to a confidentiality agreement that is satisfactory to the city.

(b) The citizens review board shall promulgate rules and regulations to effect its exercise of authority under this division and shall keep such rules and regulations on file with the city clerk.

~~(Code 1985, § 16-36)~~

Sec. 16-59. – Appeal procedure Request for appeal hearing.

(a) Under this division, all complaints will be investigated by the police department. Upon completion of an investigation, the chief of police shall, consistent with state law, notify the complainant by certified letter of the disposition of the complaint. The complainant also shall be informed of his right to appeal the decision of the department to the citizens review board.

(b) All appeals to the citizens review board must be made on a form approved by the board and filed in writing with the city clerk's office. The request must state the reason for the appeal and the nature of the incident and the basis on which the complainant contends that the action taken by the chief of police was in error. The citizen may seek the assistance of the community relations committee in drafting and filing his appeal. The citizen must file this appeal within seventy (30) calendar days of receiving written notice of the disposition of the complaint. The citizen must provide a valid current address for the purpose of all notifications required to be made pursuant to this division.

(c) Upon receiving a request for an appeal hearing, the chairperson of the board shall direct the chief of police to prepare a summary of the case file and forward the summary file to the city clerk for delivery to the chairperson members of the citizens review board. ~~A meeting of the board will be held to discuss the~~ The chairperson may request for appeal additional information from the complainant if deemed necessary.

~~(Code 1985, § 16-37)~~

Sec. 16-60. – Necessity for hearing.

~~(a)–(d)~~ The board may elect not to hear an appeal under this division if civil, criminal or civil service proceedings are instituted and pending.

Sec. 16-60. Hearing.

(a) Upon receiving a request for an appeals hearing, ~~a meeting of the board will be held shall hold a hearing~~ within 30 forty-five (45) calendar days of the request. Notwithstanding the foregoing, the board

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may elect not to hear an appeal under this division if civil, criminal or civil service proceedings are instituted and pending.

(b) ~~In~~ The hearing shall be conducted in closed session to ensure compliance with all applicable laws, including those related to the confidentiality of criminal information or intelligence and personnel matters. The parties may be represented at the hearing by counsel or any other person of their choice.

(c) The hearing will begin with the complainant and the department respectively, each in the absence of the other and the other's representatives, presenting statements of facts to the board. After receiving the parties' statements, the board shall conduct deliberations in the absence of the complainant and the department.

(d) Following the deliberations contemplated in subsection (c), in a public session, and consistent with section 16-58(a)(4), the chairperson shall indicate whether the board has decided to ~~hold a hearing~~ conduct additional evidentiary fact-finding and, if so, shall announce the date, time and place of the ~~hearing proceedings~~. In order to conduct additional evidentiary fact-finding, the board must determine that there is substantial evidence of error regarding the disposition of the disciplinary charges entered by the chief of police. The chairperson shall notify the complainant and other involved parties in writing of the decision and, if ~~a hearing is~~ evidentiary fact-finding proceedings are to be held, also shall advise all parties in writing of the reasons for the decision to hold ~~a hearing~~ evidentiary fact-finding proceedings.

(Code 1985, § 16-38; Ord. No. 1779, § 1, 3-26-2001)

~~Sec. 16-61.~~ **Hearing procedures.**

(a) If the citizens review board decides to conduct ~~a hearing, it~~ evidentiary fact-finding proceedings, those proceedings shall be concluded within ~~30~~ forty-five (45) calendar days of the date of the decision to hold ~~an appeal hearing, them~~ pursuant to section 16-60. Should the complainant or the department desire ~~a hearing to continue the evidentiary fact-finding proceedings to a~~ date other than that set by the board, the complainant or the department shall submit a written request for a change of the ~~hearing date~~ of the proceedings, stating the reason for the request. The chairperson shall approve or disapprove such request, provided that such request is received by the board at least seven calendar days prior to the date ~~of set for the hearing.~~ evidentiary fact-finding proceedings. For good cause, the chairperson may continue the ~~hearing proceedings~~ from time to time, but all appeals must be concluded within 30 sixty (60) calendar days from the date of the decision to hold an ~~appeal hearing. The hearing shall be conducted in a closed session, with at least six members of the board present~~ evidentiary fact-finding proceeding.

(b) ~~f~~ Evidentiary fact-finding proceedings shall be conducted as follows:

(1) All witnesses must testify under oath.

(2) All of the proceedings before the board shall be recorded.

(3) All parties involved shall have the right to be represented by counsel or any other person of their choice.

(4) ~~The board shall receive and evaluate evidence which may include testimony of the complainant, officers, and other witnesses, and documentary and physical evidence. The complainant shall offer evidence first in support of his appeal. The department and officer shall have the right to cross examine the complainant and his witnesses. Thereafter, the department and officer shall have the right to offer evidence, and the complainant shall have the right to cross examine the department's and officer's witnesses. At the conclusion of all the evidence, the~~

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complainant or his representative, followed by the department and officer, may make a closing statement.

(f5) Members of the board may question witnesses or request additional information or further investigation at any point in the process.

(g6) Members who, in a particular case, have a conflict of interest shall not attend or participate in the hearing proceedings and decision-making process.

~~(h) Within ten calendar days after (g) At the conclusion of the hearing evidentiary fact-finding proceedings, the board shall issue its written findings of fact to determine whether, by the greater weight of the evidence, the chief of police and the city manager along clearly erred by:~~

~~(1) Finding in a disciplinary action that allegations were sustained, not sustained, exonerated or unfounded; or~~

~~(2) Finding in connection with a recommendation. The findings the discharge of fact must be supported by a preponderance of the evidence and approved by a majority of the board who were present at firearm that the hearing officer's action was justified, not justified, or accidental.~~

~~(Code 1985, § 16-39)~~

Sec. 16-61. Reserved.

Sec. 16-62. - Action by chief of police and city manager.

(a) The chief of police shall review the determination and findings of fact of the citizens review board and any other information at his disposal. The chief of police shall take such action as he deems appropriate, consistent with state law and city policy. The chief of police will then, within seven calendar days of the receipt of the board's recommendations, report his decision to the city manager.

(b) The city manager shall review the decision of the chief of police and, within seven calendar days of the receipt of the decision of the chief of police, take such action as he deems appropriate, consistent with state law, and shall advise the chief of police of any intended action.

(c) The city manager shall notify all parties, including the citizens review board, of the decision of the city manager consistent with state law and city policy. The city manager also shall advise the city council of the outcome of the appeal. Notifications made under this subsection must be made within seven calendar days of the date that the decision of the city manager was initially communicated to the chief of police.

~~(Code 1985, § 16-40)~~

Sec. 16-63. - City clerk's duties; meeting places; staff.

(a) Under this division the city clerk shall:

(1) Act as secretary to the citizens review board;

(2) Keep the minutes of its meetings;

(3) Be custodian of all papers and records pertaining to the business of the board; and

(4) Perform such other duties as the board may require.

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- (b) The city council shall provide sufficient and reasonable rooms and use of public buildings for meetings and hearings of the board as may be necessary.
- (c) The city manager shall assign staff to support the functions of the citizens review board.

~~(Code 1985, § 16-41)~~

Sec. 16-64. - Reports Miscellaneous.

- (a) The citizens review board shall make a semiannual and an annual report of its actions for each preceding year. These reports shall be kept in the files of the board and a copy delivered to the chief of police, city manager, city council and the community relations committee.

~~(Code 1985, § 16-42)~~ (b) The board shall receive annually a report from the police chief concerning all complaints against department personnel and the disposition of such complaints.

(c) The board shall recommend changes to the citizens review process to city council as deemed appropriate and approved by a majority of the board.

(d) The board shall promote its visibility within the community by adopting procedures to educate citizens about the board process, and enhance citizen participation through process and procedural changes as deemed appropriate.

(e) The board shall conduct legal, policy and cultural awareness training for its members, in addition to that provided pursuant to section 16-56(c), on a continuing basis as deemed appropriate.

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- (e) Prior to serving, each board member must sign a confidentiality agreement that is satisfactory to the city and which shall require that members maintain as confidential any information classified as confidential by state law or otherwise classified as confidential by the city.
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- (g) The board shall elect a chairperson and vice-chairperson from the membership.

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- (h) When a vacancy occurs, the original appointing authority shall appoint a person to serve for the unexpired term of the vacant position.
- (i) Six members shall constitute a quorum in order to hold business meetings and hearings. Members are required to attend all business meetings and hearings in accordance with the attendance policies promulgated by the city council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section.
- (j) All members shall serve without compensation.
- (k) Members of the board shall be subject to removal from office by a two-thirds vote of the city council.

Sec. 16-57. Meetings.

- (a) The citizens review board shall hold regular meetings as scheduled by resolution of the board. The affirmative vote of a majority, a quorum being present, shall be required before any recommendation is made on any matter considered. A majority vote shall be required for any decision made by the board.
- (b) Special meetings may be called by the chairperson to carry out any duties described in section 16-58 by giving each member notice in writing, by providing personal notice, or by leaving notice at the member's residence not less than 72 hours prior to the time set for the meeting.

Sec. 16-58. Duties and responsibilities.

- (a) The citizens review board shall:
 - (1) Serve as an advisory board to the chief of police, the city manager, and the city council.
 - (2) Hear appeals by the citizens who filed complaints of disciplinary dispositions imposed by the chief of police or his designee relating to allegations of misconduct against a sworn police officer. The board may hear appeals of complaints regarding alleged violations of the following rules: use of force, unbecoming conduct, and arrest, search and seizure. In addition, the disposition of the review of any discharge of a firearm by an officer which results in the death or injury of a person may be appealed to this board by the person injured or the next of kin if death occurs. When a death results and there is no next of kin, any member of the city council or the chairperson of the community relations committee may file an appeal pursuant to section 16-59. The disciplinary actions that may be reviewed shall include the findings of the chief of police that an allegation has been categorized as: sustained, not sustained, exonerated, or unfounded. The dispositions that may be reviewed for the discharge of firearms shall include: justified, not justified, or accidental. The board may review only appeals of citizen complaints arising from incidents that occur after the effective date of the ordinance from which this section derives. The board may not review appeals of decisions of the city manager or the civil service board. No hearing conducted under this division is intended to supplant civil or criminal remedies or proceedings, nor civil service proceedings under section 4.61 of the city charter.
 - (3) The board, in its discretion, also may make recommendations to the chief of police and the city manager concerning policies, procedures or training of police officers.
 - (4) As required by state law, maintain as confidential all personnel information to which the members gain access as a member of the board. In addition, board members shall be required to execute and adhere to a confidentiality agreement that is satisfactory to the city.

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- (b) The citizens review board shall promulgate rules and regulations to effect its exercise of authority under this division and shall keep such rules and regulations on file with the city clerk.

Sec. 16-59. Request for appeal hearing.

- (a) Under this division, all complaints will be investigated by the police department. Upon completion of an investigation, the chief of police shall, consistent with state law, notify the complainant by certified letter of the disposition of the complaint. The complainant also shall be informed of his right to appeal the decision of the department to the citizens review board.
- (b) All appeals to the citizens review board must be made on a form approved by the board and filed with the city clerk's office. The request must state the nature of the incident and the basis on which the complainant contends that the action taken by the chief of police was in error. The citizen may seek the assistance of the community relations committee in drafting and filing his appeal. The citizen must file this appeal within thirty (30) calendar days of receiving written notice of the disposition of the complaint. The citizen must provide a valid current address for the purpose of all notifications required to be made pursuant to this division.
- (c) Upon receiving a request for an appeal hearing, the chairperson of the board shall direct the chief of police to prepare a case file and forward the file to the city clerk for delivery to the members of the citizens review board. The chairperson may request additional information from the complainant if deemed necessary.
- (d) The board may elect not to hear an appeal under this division if civil, criminal or civil service proceedings are instituted and pending.

Sec. 16-60. Hearing.

- (a) Upon receiving a request for an appeals hearing, the board shall hold a hearing within forty-five (45) calendar days of the request. Notwithstanding the foregoing, the board may elect not to hear an appeal under this division if civil, criminal or civil service proceedings are instituted and pending.
- (b) The hearing shall be conducted in closed session to ensure compliance with all applicable laws, including those related to the confidentiality of criminal information or intelligence and personnel matters. The parties may be represented at the hearing by counsel or any other person of their choice.
- (c) The hearing will begin with the complainant and the department respectively, each in the absence of the other and the other's representatives, presenting statements of facts to the board. After receiving the parties' statements, the board shall conduct deliberations in the absence of the complainant and the department.
- (d) Following the deliberations contemplated in subsection (c), in a public session and consistent with section 16-58(a)(4), the chairperson shall indicate whether the board has decided to conduct additional evidentiary fact-finding and, if so, shall announce the date, time and place of the proceedings. In order to conduct additional evidentiary fact-finding, the board must determine that there is substantial evidence of error regarding the disposition of the disciplinary charges entered by the chief of police. The chairperson shall notify the complainant and other involved parties in writing of the decision and, if evidentiary fact-finding proceedings are to be held, also shall advise all parties in writing of the reasons for the decision to hold evidentiary fact-finding proceedings.
- (e) If the citizens review board decides to conduct evidentiary fact-finding proceedings, those proceedings shall be concluded within forty-five (45) calendar days of the date of the decision to hold

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them pursuant to section 16-60. Should the complainant or the department desire to continue the evidentiary fact-finding proceedings to a date other than that set by the board, the complainant or the department shall submit a written request for a change of the date of the proceedings, stating the reason for the request. The chairperson shall approve or disapprove such request, provided that such request is received by the board at least seven calendar days prior to the date set for the evidentiary fact-finding proceedings. For good cause, the chairperson may continue the proceedings from time to time, but all appeals must be concluded within sixty (60) calendar days from the date of the decision to hold an evidentiary fact-finding proceeding.

- (f) Evidentiary fact-finding proceedings shall be conducted as follows:
- (1) All witnesses must testify under oath.
 - (2) All of the proceedings before the board shall be recorded.
 - (3) All parties involved shall have the right to be represented by counsel or any other person of their choice.
 - (4) The board shall receive and evaluate evidence which may include testimony of the complainant, officers, and other witnesses, and documentary and physical evidence. The complainant shall offer evidence first in support of his appeal. The department shall have the right to cross examine the complainant and his witnesses. Thereafter, the department shall have the right to offer evidence, and the complainant shall have the right to cross examine the department's witnesses. At the conclusion of all the evidence, the complainant or his representative, followed by the department and officer, may make a closing statement.
 - (5) Members of the board may question witnesses or request additional information or further investigation at any point in the process.
 - (6) Members who, in a particular case, have a conflict of interest shall not attend or participate in the proceedings and decision-making process.
- (g) At the conclusion of the evidentiary fact-finding proceedings, the board shall determine whether, by the greater weight of the evidence, the chief of police clearly erred by:
- (1) Finding in a disciplinary action that allegations were sustained, not sustained, exonerated or unfounded; or
 - (2) Finding in connection with the discharge of a firearm that the officer's action was justified, not justified, or accidental.

Sec. 16-61. Reserved.

Sec. 16-62. Action by chief of police and city manager.

- (a) The chief of police shall review the determination and findings of fact of the citizens review board and any other information at his disposal. The chief of police shall take such action as he deems appropriate, consistent with state law and city policy. The chief of police will then, within seven calendar days of the receipt of the board's recommendations, report his decision to the city manager.
- (b) The city manager shall review the decision of the chief of police and, within seven calendar days of the receipt of the decision of the chief of police, take such action as he deems appropriate, consistent with state law, and shall advise the chief of police of any intended action.

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- (c) The city manager shall notify all parties, including the citizens review board, of the decision of the city manager consistent with state law and city policy. The city manager also shall advise the city council of the outcome of the appeal. Notifications made under this subsection must be made within seven calendar days of the date that the decision of the city manager was initially communicated to the chief of police.

Sec. 16-63. City clerk's duties; meeting places; staff.

- (a) Under this division the city clerk shall:
 - (1) Act as secretary to the citizens review board;
 - (2) Keep the minutes of its meetings;
 - (3) Be custodian of all papers and records pertaining to the business of the board; and
 - (4) Perform such other duties as the board may require.
- (b) The city council shall provide sufficient and reasonable rooms and use of public buildings for meetings and hearings of the board as may be necessary.
- (c) The city manager shall assign staff to support the functions of the citizens review board.

Sec. 16-64. Miscellaneous.

- (a) The citizens review board shall make a semiannual and an annual report of its actions for each preceding year. These reports shall be kept in the files of the board and a copy delivered to the chief of police, city manager, city council and the community relations committee.
- (b) The board shall receive annually a report from the police chief concerning all complaints against department personnel and the disposition of such complaints.
- (c) The board shall recommend changes to the citizens review process to city council as deemed appropriate and approved by a majority of the board.
- (d) The board shall promote its visibility within the community by adopting procedures to educate citizens about the board process, and enhance citizen participation through process and procedural changes as deemed appropriate.
- (e) The board shall conduct legal, policy and cultural awareness training for its members, in addition to that provided pursuant to section 16-56(c), on a continuing basis as deemed appropriate.

2014 Council Retreat Accommodations Comparison

Location	Occupancy (Rooms) per Facility	One-Way Mileage from CMGC	Driving Distance	Approximate Quotes/Costs
Chetola Lodge and Condominiums Blowing Rock, NC	Lodge - 42 Rooms Condos - 40 Timberlake Inn - 8 Rooms	97 miles	2 hours	\$ 24,134
Omni Grove Park Inn Asheville, NC	512	131 miles	2 hrs, 22 min	\$ 41,876
Pinehurst Resort-Holly Inn Pinehurst, NC	59	92 miles	2 hrs, 22 min	\$ 27,154
The Graylyn Winston-Salem, NC	86	85 miles	1 hr, 28 min	\$ 25,265
Mid Pines Resort Pinehurst, NC	103	96 miles	2 hrs, 22 min	\$ 25,900
2012 Retreat Pinehurst Resort - Carolina	230	92	2 hrs, 22 min	\$ 33,328
2010 Retreat Pinecrest Inn - Tryon, NC	Various	91	1 hr, 53 min	\$ 25,776