

HUMAN RELATIONS BOARD
WEDNESDAY, June 21, 2023
4:00 P.M.
Hybrid Meeting
Battle Creek City Hall
10 N. Division Street

"To increase constructive communication among all people regardless of actual or perceived race, ethnicity, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, gender identity, or socioeconomic status. To also increase constructive communication between residents, public officials, and community organizations, thereby promoting harmonious and productive relationships within the community, and equitable access to community resources for all."

A. INTRODUCTIONS

B. ROLL CALL

C. APPROVAL OF MINUTES

1. May 17, 2023

D. COMMUNICATIONS

E. COMMITTEE REPORTS

F. OLD BUSINESS

1. Community Review and Oversight Board – Draft Plan

G. NEW BUSINESS

1. DEI Draft Action Plan
2. Language Access Discussion

H. COMMUNITY POINTS OF INTEREST – OPEN DISCUSSION

I. PUBLIC COMMENTS

J. BOARD COMMENTS

K. NEXT MEETING – July 19, 2023

L. ADJOURNMENT

**Human Relations Board
Battle Creek City Hall
10 N. Division St.
Room 302A
&
Virtual-ZOOM
Wednesday May 17, 2023
4:00 P.M.**

Board Members Present: Kathy Szenda Wilson, Chuck Asher, Keona Ackley, Joe Hooper, Deana Spencer, and Chris Lussier (4:17) - all attending in person.

Donald Woodward (Pao Shan), remotely from Kalamazoo, Comm. Roger Ballard, remotely from Battle Creek, Jenni Metzger remotely from Battle Creek, Lyanne Wesley, remotely from San Diego, Derrick Freeman, remotely from Battle Creek (4:11 pm), Boonikka Herring, remotely location not given.

Rebecca Fleury, City Manager, remotely in from Battle Creek.

Staff: Records/Election Clerk, Lisa Silkworth; DEI Officer, Kimberly Holley

Guests: There were none.

Board Members Absent: Jennifer Gregor, Jeffrey Cotton, Whitney Wardell and Emirrora Austin.

Call to Order: The meeting was called to order at 4:03 pm.

Approval of Minutes: A motion was made by Joe Hooper, supported by Deana Spencer, to approve the Human Relations Board minutes of March 15, 2023. All yes, none opposed. Motion approved.

Communications: There were none.

Committee Reports: There were none.

Old Business: Rebecca Fleury started discussing the Community Review and Oversight Board and the concerns that were brought up at the Workshop. Ms. Fleury also mentioned the number of Board Members they were seeking to appoint. Kathy Szenda Wilson questioned the Open Meetings Act. Ms. Fleury noted the Board is Advisory and not subject to the Open Meetings Act. Ms. Szenda Wilson also brought up the cost factor involved with training the Board. Deana Spencer noted other departments that may be involved under the oversight of the Board. Ms. Fleury noted the Board would start out with Police Department only. Chris Lussier points out the other Boards in place for oversight, such as the Housing Board of Appeals and Planning Commission.

Kimberly Holley questioned if the HRB Board was involved with the Equity Audit. Ms. Holley also discussed the action plan and strategies. The Board also discussed putting together a work session to present a draft plan before presenting to the City Commission.

New Business: There was none.

Community Points of Interest: There were none.

Public Comments: There were none.

Board Comments: Keona Ackley mentioned having City documents translated and people needing help in certain City meetings. Kathy Szenda Wilson mentioned members whose terms that will be expiring on July 21, 2023.

Next meeting: The next meeting of the Human Relations Board June 21, 2023 @ 4:00pm in Room 302A and available by Zoom.

Adjournment: Ms. Kathy Szenda Wilson adjourned the meeting at 5:01 pm.

COMMUNITY REVIEW AND OVERSIGHT
BOARD BY-LAWS

I. NAME

The name of this organization shall be the "Community Review and Oversight Board (CROB)."

II. PURPOSE

The purpose of the Board is to provide an opportunity, in an advisory capacity, for the City Manager to receive input from a community review and oversight board, in deciding reconsiderations filed pursuant to the Community Review and Oversight Board Policy, and to request that the City Manager inquire into any conduct of a Police Officer in the absence of an official complaint. The Board will also have the following roles:

- Increase credibility, community trust, and confidence in actions by BCPD staff by participation in a process that will respond appropriately to allegations of misconduct by the BCPD personnel.
- Respond to requests from the City Manager related to the disposition of inquiries and complaints, as well as the complaint process.
- Serve in an advisory role to the City Manager regarding possible improvements to policies and procedures regarding the complaint process or which are implicated in the complaint process, and to the BCPD regarding methods to improve the communication and outreach to community members.

III. MEMBERS

1. The board is limited to 9 members. There shall be two alternate members.
2. Members shall be appointed by resolution of the Battle Creek City Commission.
3. Members of the CROB shall include one City Commissioner, the City HR Director, City DEI Officer, and six residents of the City of Battle Creek. The membership may only include one current City Commissioner.
4. Members shall be appointed to a two-year term.
5. Except for the City HR Director and City DEI Officer, whose term shall be tied to their employment with the City in that role, terms of other members shall be limited to two. In the event a member is appointed to fill an unexpired term, if the member serves at least one year of the term, then that shall be considered one term toward the two-term limitation. If the member serves less than one year, then that shall not be considered a term toward the two-term limitation.
6. Nominations for new members shall be made by any member of the CROB. The CROB will consider the diversity of the board when recommending new members, and maintaining geographic representation and experiences of the entire City as new recommendations are made.
7. Removal by a majority vote of the membership can occur for two unexcused absences within any twelve month period or missing more than 50% of the meetings held within any twelve month period whether excused or unexcused; criminal convictions; misfeasance or malfeasance in office; or change in residency to outside of the City of Battle Creek. An excused absence consists of contacting an officer or liaison to let them know the reason for not attending at least one week prior to the meeting or calling within 24 hours after to inform them of an emergency. Upon a determination of removal, the position shall be considered vacant and will be filled by resolution of the Battle Creek City Commission.

8. Each member will be entitled to one vote on any matter which is properly submitted to the CROB.
9. Members shall serve without compensation.

IV. OFFICERS

1. The officers shall be a Chair, Vice Chair and Secretary.
2. The officers shall be elected by the board every two years, or sooner if a vacancy occurs.
3. The Chair will preside at each meeting and will be spokesperson of the board. The Vice Chair will perform the duties of the Chair in the absence of the Chair.

V. MEETINGS

1. A quorum is necessary to conduct business.
2. A quorum shall consist of a majority of at least 5 members present.
3. The members shall meet at least once a quarter, or more often if there are action items or trainings.

VI. PARLIAMENTARY PROCEDURE

1. The Battle Creek City Commission's Rules of Procedure as set out in City Ordinances, §212.02 shall apply to meetings of the CROB. Except where in conflict with Ordinance §212.02, Robert's Rules of Order shall be used to conduct meetings.
2. The CROB will abide by all applicable state laws and local ordinances, including but not limited to the Bullard –Plawecki Employee Right to Know Act, Michigan Public Act 397 of 1978.
3. Because the CROB is an advisory board, it is not subject to the Open Meetings Act. However, in furtherance of transparency, the CROB shall allow for public comment at the beginning of the meeting for up to 3 minutes regarding any business before the board and notice of the meeting shall be placed on the City's public notice page on its webpage at least two days prior to the meeting date.

VII. AMENDING BYLAWS

1. Revisions may be made by Resolution of the Battle Creek City Commission.

COMMUNITY REVIEW AND OVERSIGHT BOARD (the Board)

Purpose

The purpose of the Board is to provide input, in an advisory capacity, to the City Manager or their designee in reconsidering the Police Chief's findings following a Community Relations Complaint (CRC) investigation filed pursuant to the Battle Creek Police Department (BCPD) Policy. The Board may also request that the City Manager or designee inquire into any conduct of a Police Officer in the absence of a complaint. This process is not intended to take the place of any other remedy or action available to the complainant. The Board may also fill the following roles:

- Build more credibility, community trust, and confidence by participation in a process that will respond appropriately to allegations of misconduct by the BCPD personnel.
- Respond to City Manager or designee requests on the disposition of inquiries and complaints, as well as the complaint process.
- Serve in an advisory role to the City Manager or designee regarding possible policy and procedures improvements regarding the complaint process or which are implicated in the complaint process, and to the BCPD regarding methods to improve the communication and citizen outreach.

Authority/Scope

The Board will have the authority to reconsider any CRC investigation finding in which the Chief has determined a finding of exoneration; unfounded; misconduct not based on complaint; or not sustained; and to recommend to the City Manager or designee that the Chief's finding be changed to sustained under Department policy. The Board will not have the authority to reconsider a determination when the Chief has sustained the complaint.

The Board's scope of authority when reconsidering a determination will be limited to the facts, circumstances and evidence gleaned by the Office of Professional Standards (OPS) investigation or their designee known at the time the decision was made by the BCPD Chief.

The Board will not have the authority to issue subpoenas, conduct independent investigations, interview witnesses, or officers.

Confidentiality

In order to ensure the integrity of the reconsideration process, Board members must maintain complete confidentiality concerning all reconsiderations pending before the Board until such time as a final written report is presented to the City Manager or designee. No member will discuss any pending reconsideration with anyone, including other Board members, except at regularly scheduled Board meetings. No Board member may undertake an independent investigation of any matter pending before the Board. Documents examined during the process will be reviewed only during regularly scheduled Board meetings and must be returned to City staff at the conclusion of each Board meeting. Board members may not take

or keep any record generated or examined during the pendency of any reconsideration without the express approval of the City Manager or the Police Chief. The release of Board records to individuals who are not Board members will be governed by the Michigan Freedom of Information Act (FOIA). Any request for release of records will be handled by appropriate City staff.

COMPLAINT PROCESS

Filing a Complaint

An allegation that conduct of a BCPD Officer constituted a violation of law or policy will be documented on a department-issued form as a CRC and forwarded to the Inspector of the OPS for investigation and tracking purposes.

Complaints may be filed online, in person, with a member of the Board, by mail, facsimile, telephone or email with the BCPD. Complaints may be filed by the complainant themselves, or by their designated representative, or by another individual who witnessed the conduct. Regardless of how a complaint is received, BCPD employees will provide assistance to persons seeking to avail themselves of the complaint process.

An individual making a complaint will fill out and sign the Department issued CRC Complaint Form. If the Complaint Form is completed on the complainant's behalf by their representative or if the complaint was received online, by mail, facsimile, telephone or email, the form may be returned to the complainant to check for accuracy and whether it reflects the complainant's intentions.

A complaint may be withdrawn at any time; however, a withdrawal will not preclude the continuation of an investigation and the imposition of discipline if deemed appropriate by the Chief.

Investigation of a Complaint

Investigation of complaints will normally be completed within 45 days of their receipt (investigations may take longer based on interview scheduling, forensic analysis Etc). In the event that the investigation is not completed within 45 calendar days, the complainant will be provided with a progress report summarizing the status of the investigation. Such periodic updates will be provided at least every 45 calendar days until the investigation is complete.

Upon investigation completion, the complainant will be notified of the disposition within 10 business days of the date that the BCPD Chief has closed the investigation. This notification will be done by personal telephone contact, and if possible, by certified mail.

Within 5 business days of the complainant being notified of the final disposition, the OSP Inspector will send the complainant a follow-up evaluation form and advise them of their

right to seek reconsideration of the disposition with the Board in a self-addressed, stamped envelope that can be returned to the BCPD.

Disposition of Complaints

The Chief or designee makes the final adjudication of CRC complaints.

The Chief or designee will review all complaints adhering to the following:

- If the complaint is a criticism of operating policies or procedures and a change is justified and consistent with the law, the Chief, in conjunction with staff, will develop and implement the necessary changes.
- Non-criminal policy violations will be reviewed for progressive discipline consistent with collective bargaining agreements, city administrative code and labor relations attorney advice.

If criminal law violations are implicated, an offense report will be written and submitted to the County Prosecutor or City Attorney for review. (Criminal cases may be referred to an outside agency for investigation.)

RECONSIDERATIONS

Reconsideration of Findings by the Chief of Police

Following the conclusion of an OPS investigation into a complaint and a final finding by the Police Chief of something other than sustained, the complainant may request reconsideration of the Chief's findings to the Board. A reconsideration must be filed with the Board within 15 business days of the date that the complainant received notification of the Chief's decision. The United States Postal Service (USPS) Certified Mail tracking data will serve as the date of receipt. Should the USPS Certified Mail be unclaimed, the date the letter was sent by the USPS, will serve as the default date. The Board will promptly refer the matter to a meeting of the Board. For purposes of this section, the term 'complainant' will mean a person who has made a CRC, or a person who has made a complaint on behalf of another person with that person's written permission.

A reconsideration hearing before the Board will be scheduled within 30 business days of receipt of the request. The hearing will be conducted no later than 60 business days after the reconsideration is filed. A reconsideration hearing by the Board will consist of an examination of the file, including interview transcripts, police reports, video and all other relevant documents. The complainant may appear before the Board, present information and answer questions. The Board will not hear from other witnesses or from City employees other than the Chief or designee. The Board may request that the Chief appear before the Board to answer questions related to the Chief's findings. The Board also may make a written request for further investigation by the Police Chief or their designee, or the City staff

¹ Deletions must be in conformance with the Michigan Freedom of Information Act and applicable case law interpreting it.

member assigned to work with the Board. The complainant may request that personal information¹ not germane to the reconsideration be redacted from any document.

The reconsideration hearing will be closed to the public, if requested by the complainant, since this is an advisory body and not subject to the Open Meetings Act. If a closed hearing is not requested by the complainant, then the hearing will be open to the public. All hearings will be conducted pursuant to the Board's by-laws. The Board's discussion will be closed to the public. If the Board finds that the investigation by the OPS is insufficient, the Board may recommend that the City Manager send the case back for additional investigation.

At the conclusion of its consideration of the matter, the Board will prepare a written report for submission to the City Manager or designee setting forth its conclusions and recommendation that the City Manager or designee either sustain or reverse the Chief's finding. The Board's report will contain such comments and criticisms of the Chief's finding as a majority of the Board feels are appropriate. The report may also recommend training related to the complaint that, in the opinion of the Board, would improve the relationship between the BCPD and the community. This report should be submitted to the City Manager no later than 14 business days after the conclusion of the hearing. The City Manager may ask the Board in writing to clarify its conclusion.

The City Manager will have the final authority to sustain or reverse a finding of the Chief which has been appealed to the Board.

OTHER ROLES AND DUTIES OF THE BOARD

Review

The Board may from time to time review the complaint reporting process and provide recommendations for its improvement to the Police Chief and City Manager.

Reporting

The Board will have responsibility, no less than annually, for preparing a review concerning the number and types of complaints reported and concluded through the complaint process, and to assess the thoroughness, accountability, effectiveness, accessibility, and responsiveness of the complaint process. The Board may also issue reports about police/community relations, racial profiling, and other concerns that relate to the community climate. The Board will report its findings promptly to the City Manager.

The Board will be updated monthly on the progress by the OPS of all active complaint investigations. Annually, the OPS will report to the Board all complaints received and the dispositions.

Advisory

The Board will monitor the overall fairness of the complaint process for both the citizen and BCPD employees.

The Board may make recommendations to the City Manager regarding improvements to policies and procedures that are implicated in the complaint process or that are perceived by the Board to have a negative impact on the community, as well as communication and outreach to the community regarding the complaint process.

BCPD may request the Board assist in preparing brochures and other community outreach activities that describe and explain complaint policies, procedures, and process.

Community Outreach

A major goal of the Board is to have an interactive role within the Battle Creek community. Specifically, the Board is committed to outreach activities that influence behaviors, attitudes, and actions with the goal of improving the relationship between the BCPD and the community. To this end, the Board is empowered as follows:

- A brochure explaining Board procedures and the rights of complainants will be developed by the Board and BCPD, and recommended to the City Manager for approval, with the City Manager approved brochure then being widely distributed throughout the community, including, but not limited to, the BCPD offices, City Hall and the offices of community organizations and churches.
- The content of the brochure and the Complaint Form will also be available on the City of Battle Creek's website.
- The Board is empowered to hold community conversations, at least annually, and additionally as needed, with community leaders and representatives of neighborhood associations and civic organizations to discuss concerns about police procedures.
- The Board, in conjunction with the City Manager, is empowered to organize public forums to discuss the community climate and develop an action agenda to work with the Police Chief or designee to address community concerns regarding policies and procedures.

The Board will work with the BCPD, NPC's, community organizations and faith-based community organizations, to anticipate and prevent problems, including analyzing data and making recommendations to the City Manager about matters that may require special attention.