

MINUTES  
CITIZEN REVIEW BOARD MEETING  
OLD CITY HALL

Monday, December 10, 2007

A meeting of the Citizen Review Board of the City of Key West, Florida was held at Old City Hall on 510 Greene Street, Monday, December 10, 2007.

Chairman Adare Fritz called the meeting to order at 6:00 p.m.

Answering roll call were Chairman Adare Fritz and Board Members Trice Denny, Michael Driscoll, Bryan Green, Mark Kielsgard and Susan White.

Absent: Reverend Thornton.

Also present were Counselor Robert Cintron, Executive Director Amanda Willett and Lt. Jim Benkoczy.

All present pledged allegiance to the flag of the United States of America.

### **Approval of Minutes**

Chairman Adare Fritz presented the minutes of September 10, 2007. Bryan Green moved to approve the minutes. Trice Denny seconded. Chairman Adare Fritz presented the minutes of October 22, 2007. Bryan Green moved to approve the minutes. Mike Driscoll seconded. Hearing no objections the minutes were approved.

### **Approval of Agenda**

Chairman Adare Fritz presented the agenda. Dr. White requested for an addition to the Agenda for discussion regarding the CRB's participation in the City of Key West's 2007 Holiday Parade. Hearing no other objections the agenda was approved.

### **Complaint Reviews**

#### **A. Dwayne Norris – D'Aiuto's Investigative Report**

Bryan Green led the discussion concerning the continued review of the complaint filed by Dwayne Norris. Green explained that there were two parts to the complaint. The first part of the complaint has been dealt with by the board with the agreement that the actions of the police pepper spraying Mr. Norris was appropriate and proportionate to the circumstances that had occurred with his arrest. The use of force was considered to be reasonable and within the KWPD's matrix guidelines. Green discussed the second part of the complaint and why the board had decided to reinvestigate it. The re-investigation was initiated to determine two issues: 1. Mr. Norris' allegation that the police had ordered medical staff to give him an injection of Haldol, and 2. Mr. Norris' allegation of MSCO deputies asking KWPD officers about the option of using a taser on him. Although IA had interviewed some of the officers that were present in the emergency room as to the incident, Green stated that IA failed to thoroughly investigate the complaint by not interviewing any of the hospital personnel that was also present and all officers

(MCSO & KWPD) that were on scene regarding those two events occurring in the hospital. Green expressed his satisfaction with CRB Investigator D'Aiuto's interview with Dr. Erlandson, wherein he affirmed that police officers cannot instruct medical personnel to give injections to patients and he was not ordered by the police to do so with Mr. Norris, nor any other patient. Green continued that Dr. Erlandson had stated the use of taser was not discussed in his presence and he lacked any knowledge of officers' suggestions to tase Mr. Norris. Green moved to for a finding of unfounded concerning the second portion of Mr. Norris's complaint. Mark Kielsgard seconded.

Yeas:

Trice Denny, Michael Driscoll, Bryan Green, Mark Kielsgard, Susan White and Adare Fritz

Nays:

None.

Motion passed.

### **New or Continued Business**

#### **a. CRB Perspective on Tasers**

In the last meeting the board had agreed to continue the discussion of their perspective on use of tasers when all board members could be present to participate. Kielsgard began the discussion by pointing out that the Committee Against Torture and Cruel Treatment (CAT) has issued their recent opinion that tasers are a form of torture. Dr. White discussed that the National Academy of Science refutes the information provided by Taser International, who manufactures tasers, that they are safe. Dr. White also discussed with the board three recent incidents occurring across the nation concerning police taser use and one of the individuals involved dying as result of being tasered. Kielsgard stated that many times tasers are used on individuals who possess altered state of stress, either from the situation, medical problems or alcohol and/or drug use and it is those individuals who pose the greatest risk of dying from being tasered. Kielsgard had discussed his past meeting that took place a few years ago with MCSO regarding the suggestion of using defibrillators with every taser and deputies being trained on their use. Kielsgard commented he was informed by MCSO where tasers had been used 10 times and had failed to operate on 8 of those 10 times. Driscoll discussed KWPD's current policy that they do not use tasers and questioned the board's discussion of issue when there isn't policy that supports it. Cintron advised that while it is appropriate that the board discuss their perspective on taser use, they should refrain from making recommendations on policies that do not exist. Cintron reminded the board that taser use does happen in Key West when law enforcement officers from other agencies come to the aid of KWPD through inter-local or mutual aid agreements during holidays or festivals such as Fantasy Fest. Chairman Fritz concluded that if the KWPD's policy does change in the future that the CRB would like to be invited to participate in the discussion prior to enacting a new taser policy. Lt. Benkoczy informed the board that KWPD is not considering a policy change regarding tasers and he would advise the board if there was discussion of such in the future.

**b. Investigation of Officer Neary**

Cintron advised the board of his discussion with Mick Barnes concerning the FBI/KWPD investigation of Officer Neary. Barnes had explained to Cintron that the investigation is ongoing at this time and he would not appear before the board to discuss it for that reason. Green suggested that a meeting with the Chief may be beneficial concerning his position given public's declining perception and confidence of the department which may be due to the media's reporting of the investigation. Fritz responded that the Chief has always had an open invitation to discuss any matters with the board. Kielsgard stated that it is unlikely the Chief will discuss issues related to an open investigation. Green commented that there are a number of incidents excluding the Neary investigation where there is poor perception of the police which could be discussed with the Chief. Fritz recommended that Lt. Benkoczy inform the Chief that the board has extended their open invitation to him if he would like to come and discuss matters in open forum with the CRB.

**c. City Holiday Parade**

Dr. White discussed her participation along with that of Chairman Fritz and Cintron in the City of Key West's 2007 Holiday Parade and remarked that it was a wonderful experience. Cintron commented that there was a general perception of the audience not knowing what the CRB was and that the board needed to do more public relations to get the word out.

**Counsel's Report**

Cintron reported that he had discussed the cellphone photograph issue with the former assistant state attorney who had prosecuted the case as well as Harrington's attorney, John Rotolo. The former assistant state attorney informed Cintron that he was surprised to know that the cellphone photographs existed because it was his understanding based upon his communication with the police department that they did not exist. Cintron advised that before the board can form a conclusion whether there was a deliberate or negligent failure of the police to submit the cellphone photographs, the police, state attorney and John Rotolo should have an opportunity to present their position on exactly what happened. Cintron recommended an evidentiary hearing in order for all parties to present their sides and then the board may form a conclusion. Cintron continued that before the hearing can take place, a letter needs to be drafted to the police and state attorney seeking a response to the issue of why documents appearing to be in police possession were not submitted to the state attorney in compliance to Brady requirement and a Motion to Compel in Harrington's court case. The board can then determine their next step considering the response or action it receives from the police or state attorney. Kielsgard added that in order to draft the letter, evidentiary documents such as motions and court orders needed to be obtained first. Cintron stated that he would obtain the necessary documents from the court and draft the letter.

Cintron reported that Willett had requested and received the bay bottom lease from the City and he is in the process reviewing it. Cintron also discussed the possibility of the lease being expired and his desire to speak with the City Attorney regarding it. Green questioned as to whether or not the lease or management agreement had expired. Cintron reminded the board that the best remedy for Mr. Drysdale is to file a lawsuit in circuit court challenging the issue and that the CRB does not have the authority to decide this issue. Driscoll stated that in conjunction with this case, the CRB needed to determine what authority the police have to enforce that area in order for the board to determine future cases. Driscoll added that a map of city boundaries would be imperative to assist in determining where the enforcement area for the city begins and

ends. Cintron responded the City's boundaries are outlined by legal descriptions and not a map. Cintron advised that the board has its right to an opinion, although in this matter it is unenforceable, and the city or the police may agree or disagree with the opinion. Cintron concluded, as he had explained to Mr. Drysdale, that ultimately a judge must definitively rule on the issue for it to be resolved. Green reiterated his request that the board ask the City Attorney in writing whether the City has the authority to police that area in question and on what basis. The board agreed to discontinue discussion of the matter as Cintron will provide a letter to the City concerning the issues discussed and report back to the CRB with the outcome.

### **Board Members Report**

Reverend Thornton was absent for the meeting and the board postponed the discussion regarding a CRB meeting in Bahama Village until the next meeting when he could be present.

### **Executive Director's Report**

Willett distributed a calendar of proposed meeting dates in 2008 for the CRB and the board agreed to conduct their meeting on those given dates.

Willett announced that City of Key West's Annual Holiday Party is scheduled for Saturday, December 15, 2007 and board members are invited to attend.

### **Chairman's Report**

Chairman Fritz reported to the board the outcome of the meeting with the City Manager Jim Scholl concerning the CRB office lease. Fritz discussed that the John Jones is still looking for a City-owned space for the CRB, however in the event that they are unable to provide us with another office before the lease expires in June 2008, the City has agreed to pay the remainder of the lease. John Jones did mention the possibility of putting the CRB into a trailer that would need to be relocated to the Outer Mole and would contact us when becomes available. Cintron informed the board that the City is undergoing efforts to find alternative space for its employees due to the mold contamination in City Hall which would also prolong the City finding space for the CRB.

Chairman Fritz discussed the matter of IA's delinquency in returning investigations to CRB complaints. Lt. Jim Benkoczy explained that one of the complaints, filed by Robert Chittenden, was initially turned over to the criminal investigation unit because the complainant was victim of battery and no arrests had been made. Benkoczy continued that the Chittenden case is currently being reviewed by Captain Sauer for investigative summary. Benkoczy also reported investigations have not begun for CRB complaints filed by Matthew Lee and Suleyman Unuvar due to IA's current caseload with complaints that were directly filed with IA and that these cases have taken priority over the CRB complaints received. Benkoczy also explained that Inspector Del Cid has attended 3 weeks of IA training which occurred during the timeframe of investigating these cases also causing some of the delay. Benkoczy stated that in some of the cases where there is the possibility or the implication of officer discipline, IA is required to complete those cases within 180 days according to statute. Benkoczy continued that in the more serious cases where IA foresees a possible issue with discipline for the officers, IA is making sure that the case is completed in that time frame.

**Public Input**

Gary Salyer Key West, FL  
Bob Kelly Key West, FL  
Janet Kelly Key West, FL

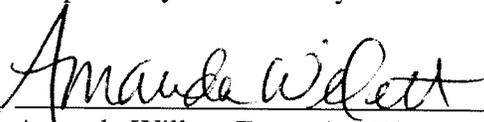
**Media and Press**

None

**Adjournment**

There being no further business, Chairman Fritz adjourned the meeting at 7:55 p.m.

Respectfully submitted by:

  
Amanda Willett, Executive Director

MINUTES  
CITIZEN REVIEW BOARD MEETING  
OLD CITY HALL

Monday, October 22, 2007

A meeting of the Citizen Review Board of the City of Key West, Florida was held at Old City Hall on 510 Greene Street, Monday, October 22, 2007.

Chairman Adare Fritz called the meeting to order at 5:57 p.m.

Answering roll call were Chairman Adare Fritz and Board Members Michael Driscoll, Bryan Green and Susan White.

Absent: Trice Denny, Mark Kielsgard and Reverend Thornton.

Also present were Counselor Robert Cintron, Executive Director Amanda Willett and Sgt. Donnie Barrios.

All present pledged allegiance to the flag of the United States of America.

**Approval of Minutes**

Chairman Adare Fritz announced to the board that the September 10, 2007 Minutes will be available for approval at the next board meeting.

**Approval of Agenda**

Chairman Adare Fritz presented the agenda. Hearing no objections the agenda was approved.

**Complaint Reviews**

**A. Warren Carl Drysdale**

Chairman Fritz led the discussion concerning the continued case filed by Warren Carl Drysdale. Mr. Drysdale discussed the issues pertinent to his case and requested the board to answer the list of questions he had prepared for them. Cintron explained the legal aspects of Mr. Drysdale's case. Cintron stated that the City Attorney has been adamant that the ordinance affecting Mr. Drysdale is valid and properly enforced, it was the county attorney, under contract to represent the city, who dropped the case on the grounds that they did not have sufficient evidence to prove that Mr. Drysdale's vessel was located in a area that violated the ordinance. Cintron continued that Mr. Drysdale received nolle pros ruling which means that the charges could be re-filed and although the charges were dropped does not resolve the fundamental issue, whether the city has jurisdiction over the bay bottom. Cintron questioned if the City does have jurisdiction over the waters, does the jurisdiction include preventing someone from anchoring their vessel where they choose and whether or not Mr. Drysdale has been singled out for selective enforcement of this ordinance. Cintron stated that an additional issue to his complaint would be on what authority did the police officer have to peer in through the windows and step aboard the vessel and try to enforce this ordinance. Cintron advised the board that it is not for the CRB to decide whether the

City has jurisdiction of the bay bottom, however, in order to resolve Mr. Drysdale's case of selective enforcement it is necessary to have that question answered. Green responded that he understood how debating the ordinance is not within the CRB's purview, however, Mr. Drysdale's complaints are derived from officers enforcing an ordinance which may be incorrect and thus affecting the complainant. Green questioned whether the officers have any authority outside the 600 ft. rule and recommended to defer a decision for Mr. Drysdale's complaints until an answer or explanation regarding the ordinance has been obtained from the City Attorney. Green moved that a letter to the City Attorney be drafted by Cintron seeking specific clarification of KWPD having the authority to police an ordinance over the seaplane basin which is outside the 600 ft. rule from city limits and explain that the CRB is making this request so that it may carry out its functions of reviewing Mr. Drysdale's complaint of selective enforcement. Michael Driscoll seconded the motion.

Discussion: Mr. Drysdale stated that he desired for the board to incorporate into the motion a request to the City Attorney for a map of the city limits. The board had agreed that requesting the map might dilute their overall intention and would possibly risk receiving a response to the question from the City Attorney. Sgt. Barrios commented that instead of the map, the board might want to request the city lease for the bay bottom from the City Attorney. The board directed Willett to obtain the lease from the City Attorney. Cintron reminded Mr. Drysdale that his best course of action would be to file a civil suit to ultimately obtain any closure or satisfaction on the issue and that the CRB is limited to recommendations, which is what the board is chartered to do.

Yeas:

Michael Driscoll, Bryan Green, Susan White and Adare Fritz

Nays:

None.

Motion passed.

## **B. Scott Harrington**

### **i. Pattern & Practice**

Chairman Fritz led the discussion concerning the pattern and practice of harassment by KWPD officers of Mr. Harrington. Green stated as he has reviewed Mr. Harrington's past complaints and listened to much discussion by the board regarding same, he is not aware of any evidence to suggest that he has been subject to an undue level of policing that he didn't bring upon himself. Driscoll and Fritz agreed and stated that Mr. Harrington was the perpetrator in the harassment, not the victim. Green moved to agree with IA's finding that Mr. Harrington's claim of pattern and practice of harassment by KWPD officers be unfounded. Susan White seconded the motion. Willett informed the board that IA did not make a finding on this matter as Mr. Harrington only requested that the board review the compilation of all of his complaints that have been investigated by IA to determine whether or not there is a pattern and practice of harassment. The motion was withdrawn. Cintron advised that the motion should be that Mr. Harrington did not present sufficient factual justification for the board to find that his complaint of harassment should be forwarded to IA for investigation because standard CRB procedure is to forward the

complaint to IA. Fritz referred to a previous complaint filed by Mr. Harrington with allegations against Officer Delfilippo where the issue of pattern and practice was addressed. Willett informed the board that particular case, which was CRB Case No. 07-003, was discussed by the board at the last meeting wherein the board determined a finding of unfounded. Cintron stated that due to the amendment of Statute 112.532, police oversight boards are mandated to forward all complaints to IA for investigation. Cintron continued that as Mr. Harrington has made a new complaint that various officers have engaged in a pattern and practice and IA must investigate the matter first before the board can make a finding. The board has the affirmative duty to forward the complaint in order to be compliant with the statute amendment. Green questioned which incident Mr. Harrington is referring to regarding the pattern and practice. Cintron responded that it is all of the incidents that have taken place and IA has never conducted an investigation on the culmination of incidents rather they have focused on each separate incident or complaint. Cintron recommended that if the board considers this to be a new complaint filed by Mr. Harrington, then the board is obligated to send it to IA for investigation. The board agreed to consider Mr. Harrington's allegation of pattern and practice of harassment by KWPD officers as a new complaint and to forward it to IA for investigation purposes as set forth in Statute 112.532.

## **ii. Photograph**

Cintron discussed the cell phone photograph taken of Mr. Harrington and Officer Delfilippo and IA not having the opportunity to investigate police misconduct on the alleged failure to produce the photograph to the State Attorney when defense counsel had requested it. Cintron stated that it is important to determine what happened with the photograph. Cintron further stated that Mr. Harrington's attorney, John Rotolo, stated before the CRB in the last meeting that the cell phone photograph was withheld from being produced in court and the issue was never resolved. Cintron continued that the photograph being withheld is a serious accusation and in fairness to the police department, they should have an opportunity to look into the matter. The board agreed that IA should investigate the matter and Fritz requested Cintron to send a letter to that effect on behalf of the CRB.

## **New or Continued Business**

Dr. White distributed materials and articles of research on tasers and discussed with the board that use of tasers and their safety and side effects is not a question for law enforcement to answer, but a scientific question. Dr. White commented that literature presented by police, in the recent use of force training for the CRB, is funded by Taser International and the credibility of such documentation is in question. Green stated that the board should address the use of tasers used by law enforcement other than KWPD. Cintron explained that there is a mutual aid agreement policy, which allows for officers from other jurisdictions to offer assistance to KWPD officers and use tasers if their respective agency allows that application of force standard. Cintron advised that the board has the fundamental issue of being concerned about different standards of force being employed in our community during special events such as Fantasy Fest, New Years Eve, etc. Cintron recommended that the board should be proactive about tasers, especially if the City is considering allowing its use in the future. The board determined to continue the discussion of tasers at the next meeting when all members of the board would be present to participate in the discussion.

## **Counsel's Report**

Cintron commented to the board that he had been informed that there had been some recent discussion within the community that the amendments to Statutes 112.532 and 112.533 eliminated the need for a CRB and that City commission candidates received questionnaires from the PBA regarding those amendments. Counselor Cintron distributed copies of Statutes 112.532 and 112.533 to the board for their review and had explained in detail the recent amendment to those statutes so they would have a better understanding. Cintron explained that with these amendments, the Florida legislature has for the first time expressly acknowledged the existence of CRB type organizations referring to them as a political subdivision which is validating CRBs, not eliminating them.

## **Board Members Report**

Mike Driscoll provided the board with a brief overview of the 2007 NACOLE Annual meeting in San Jose, CA that he attended with board member, Trice Denny.

Amanda Willett, in Rev. Thornton's absence, informed the board of his desire for the board to conduct a meeting in Bahama Village given the recent incidents between residents and KWPD officers. The board was receptive to the idea and agreed to allow more discussion with Rev. Thornton would be present at the next meeting.

Dr. White had proposed the idea of the CRB participating in the City of Key West's 2007 Holiday Parade. The board was in agreement and had discussed preparations for it.

## **Executive Director's Report**

Willett reported that current cases are being investigated with IA and are not expected for return before the next meeting. Willett suggested the board cancel the November meeting date and resume meeting for December when cases can be reviewed.

Willett had also discussed that she is currently working on the annual report and will send a draft to the board as soon as it is completed.

Willett informed the board the City has not made decision regarding the relocation of the CRB office and the budget line item has been reduced by \$10,000 leaving the CRB with funds to rent the current space until January 2008. Cintron advised the Chairman to send a letter to the City Manager regarding office issue.

## **Chairman's Report**

Chairman Fritz had discussed the usage of the CRB identification badges provided by the City. The badges were distributed to each of the board members.

## **Public Input**

JoAnn Murphy	Key West, FL
Bruce Kelk	Key West, FL
Warren Carl Drysdale	Key West, FL
Fred Allen	Key West, FL
Scott Fraser	Key West, FL



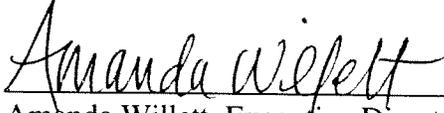
**Media and Press**

None

**Adjournment**

There being no further business, Chairman Fritz adjourned the meeting at 8:12 p.m.

Respectfully submitted by:

  
Amanda Willett, Executive Director

MINUTES  
CITIZEN REVIEW BOARD MEETING  
OLD CITY HALL

Monday, September 10, 2007

A meeting of the Citizen Review Board of the City of Key West, Florida was held at Old City Hall on 510 Greene Street, Monday, September 10, 2007.

Chairman Adare Fritz called the meeting to order at 6:00 p.m.

Answering roll call were Chairman Adare Fritz and Board Members Trice Denny, Michael Driscoll, Bryan Green, Mark Kielsgard and Reverend Thornton.

Dr. Susan White attended telephonically.

Also present were Counselor Robert Cintron, Executive Director Amanda Willett and Lt. Jim Benkoczy.

All present pledged allegiance to the flag of the United States of America.

**Approval of Minutes**

Chairman Adare Fritz presented the minutes of July 9, 2007. Bryan Green moved to approve the minutes. Mark Kielsgard seconded. Hearing no objections the minutes were approved.

**Approval of Agenda**

Chairman Adare Fritz presented the agenda. Green had recommended adding a discussion item regarding any legislation preventing the CRB to investigate complaints under New Business. Hearing no other suggestions, the agenda was approved.

**Complaint Reviews**

**A. Scott Harrington**

**i. CRB 05-015**

Green led the discussion concerning CRB#05-015 filed by Mr. Harrington with allegations of false arrest and selective ticketing involving Officer Piskator and Sgt. Hock. Green stated that the independent witness, Dennis Cooper, did not see any other bike traveling the wrong direction or any rudeness on behalf of the police officers present. Green further stated that he couldn't find anything in the investigation or report that supports Mr. Harrington's claim of false arrest or selective enforcement and moved to agree with IA's finding of unfounded. Kielsgard agreed with Green's finding, however, stated it should be noted in terms of reviewing pattern and practice and also that the officer can exercise discretion in minor traffic offenses such as the one in Mr. Harrington's case. Kielsgard seconded the motion.

Yeas:

Trice Denny, Michael Driscoll, Bryan Green, Mark Kielsgard, Reverend Thornton and Adare Fritz

Nays:

None.

Motion passed.

**ii. CRB #05-016**

Green led the discussion concerning CRB#05-016 filed by Mr. Harrington with allegation of inappropriate behavior involving Officer Delfilippo. Kielsgard stated that it is uncontroverted that the officer approached Mr. Harrington for the photograph to be taken and in order to mock him, which is unprofessional behavior. Mr. Harrington addressed the board and stated that he had recorded Officer Delfilippo taking this action, however after his arrest his video camera was replaced with a blank tape. Mr. Harrington believes that Officer Delfilippo stole the videotape because it proves that the Officer Delfilippo assaulted him. Mr. Rotolo addressed the board and explained that in Mr. Harrington's court case, Judge Miller had issued an order for the police department to provide the cellphone photograph, which was never done. Mr. Rotolo continued that he filed a Motion to Dismiss for violation of Mr. Harrington's due process rights because Brady materials, such as the photograph, were not provided. Mr. Rotolo had also explained that in addition to the photograph, the police in-car video camera was also not produced in court, which would disprove Officer Delfilippo's claim that Mr. Harrington was threatening him and his family. Green stated that the inappropriate behavior in this case is taking the "trophy" photograph, which appears to have been admitted by Officer Delfilippo in his IA interview with Lt. Ream. Kielsgard stated that the board could also review the matter of whether the officer destroyed evidence even if Mr. Harrington did not make a complaint about it. Cintron questioned Mr. Harrington under oath if he could recognize the images in the copy of the cell phone photograph. Mr. Harrington stated that he was unable to decipher who was in the photograph. Cintron recommended that it might be necessary to subpoena the officers to have them identify information pertinent to the photograph, which was provided to the CRB by IA. Cintron advised that the photograph has a printed date of August 3, 2005 and if the date is correct, the photograph was in existence when the motion to produce the photograph was filed in court. Cintron further advised to defer a decision on this matter until the officer has had an opportunity to explain why the photograph wasn't produced to the court. Kielsgard moved to defer the case and request the officer to come voluntarily at first, if not via subpoena before the CRB to testify and explain the facts surrounding the photograph. Reverend Thornton seconded the motion. Lt. Benkoczy stated that the PBA would advise the officer to not come before the CRB. The motion was withdrawn. Cintron recommended the issue be given to the State Attorney for investigation. Green moved for a finding of sustained on the inappropriate behavior of Officer Delfilippo concerning the actual allegation stated in the complaint and to decide separately on the evidence issue. Reverend Thornton seconded the motion.

Yeas:

Trice Denny, Michael Driscoll, Bryan Green, Mark Kielsgard, Reverend Thornton and Adare Fritz

Nays:

None.

Motion passed.

Kielsgard made a second motion to request IA to investigate the failure of providing the photograph evidence as requested by the court. Motion died due to the lack of a second. Kielsgard moved that the board invite the State Attorney assigned to this case and provide any information relative to the photograph evidence issue. Motion died due to the lack of a second. Green moved that no further action be taken regarding the evidence issue related to the photograph not being provided in Mr. Harrington's court case. Driscoll seconded the motion.

Yeas:

Trice Denny, Michael Driscoll, Bryan Green and Reverend Thornton

Nays:

Mark Kielsgard and Adare Fritz

None.

Motion passed.

**iii. CRB #07-003**

Kielsgard led the discussion concerning CRB#07-003 filed by Mr. Harrington with allegation of selective enforcement involving Officer Delfilippo. Kielsgard stated that IA did not conduct an adequate investigation as they only provided statistical data that is of no value. Kielsgard continued that the statistics could be used to argue either side of the case as they do not point in any one direction or another and could not be relied upon. Kielsgard explained that the lack of investigation of this case shows that Mr. Harrington's cases are not being taken seriously. Kielsgard moved for a finding of unfounded and note the file that IA conducted an inadequate investigation. Driscoll seconded the motion.

Yeas:

Trice Denny, Michael Driscoll, Bryan Green, Mark Kielsgard, Reverend Thornton and Adare Fritz

Nays:

None.

Motion passed.

**iv. Videotape submitted to the CRB on August 23, 2007**

Kielsgard provided the board with an overview concerning the recording on the videotape submitted by Mr. Harrington to the CRB on August 23, 2007. Kielsgard stated that he witnessed the officers exercising their discretion in which they are entitled to do so. Kielsgard moved that the incidents recorded on the videotaped be unfounded. Driscoll seconded the motion. Willett reminded the board that at the previous meeting, the board had requested the additional video footage Mr. Harrington had in his possession for them to review to support his allegations and that the videotape in itself is not a complaint. Cintron recommended that in lieu of a motion, the board could determine that the videotape does not contain any evidence that warrants the CRB opening an investigation. Kielsgard discussed the incident wherein a bicycle officer touched Mr. Harrington as he rode by and made a mocking comment to go film drug dealers. Kielsgard withdrew his former motion and moved that there was no evidence, with exception of the incident concerning the bicycle officer mentioned above being viewed as continued pattern and practice of harassment, which would warrant the CRB to open an investigation. Green seconded the motion.

Yeas:

Trice Denny, Michael Driscoll, Bryan Green, Mark Kielsgard, Reverend Thornton and Adare Fritz

Nays:

None.

Motion passed.

**v. Videotape discussed at the July 9, 2007 Board Meeting**

Cintron suggested the board follow the same procedure as they did for the other tape. The board, by consensus, agreed that there was no evidence contained on the videotape that warranted the CRB to open an investigation. Cintron also suggested that it be noted and recorded that Mr. Harrington was requested to submit all videotapes that he had in his possession to support this alleged harassment and he did not follow through with that request.

**vi. Pattern & Practice of Harassment by KWPD officers**

Kielsgard moved to continue the consideration of whether or not there is a pattern of harassment of Mr. Harrington by the KWPD to the next board meeting. Kielsgard stated that he would like to review the voluminous document once again in order for the issue to receive a fair and thorough finding. Denny seconded the motion.

Yeas:

Trice Denny, Michael Driscoll, Bryan Green, Mark Kielsgard, Reverend Thornton and Adare Fritz

Nays:

None.

Motion passed.

### **New or Continued Business**

Cintron cautioned the board to limit their discussion of the FDLE investigation of Officer Pablo Rodriguez and the IA investigation involving Inspector Janeth Del Cid, as they are both open and pending cases. Cintron continued that the board cannot discuss the merits of the case at this time based upon newspaper articles, but may determine whether or not the board would like to open investigations or wait until the current investigations are closed and review the reports. The board directed Willett to request the reports once the investigations have been concluded and closed by IA.

Green discussed that during a conversation with Jimmy Weekly, it was mentioned that Weekly had received some legislation from Governor Crist that would preclude CRB type organizations from being able to investigate complaint. Cintron stated that the only legislation he could be referring to is the Statute 112.232 and 112.533, which was amended in July 2007 and it does not prevent the CRB from carrying out its functions, which includes investigating complaints against police officers.

### **Counsel's Report**

Cintron reported that he would inform that board via email as to the current status of the declaratory judgment being re-filed with the court.

Cintron informed the board that the public defender's officer notified him that the criminal charges against Mr. Drysdale have been dropped because the City does not have jurisdiction over the area where he anchors his vessel.

### **Executive Director's Report**

Willett informed the board that the City Manager approved costs for two board members to attend the 2007 NACOLE Annual conference. Cintron had suggested that in the future to obtain videotapes of the conference lectures due to the costs associated with attending the conference in person.

Willett provided the board with an update regarding the City finding office space for the CRB.

Willett informed the board that she has contacted the City – Human Resources department regarding scheduling appointments for the board members to have their photographs taken for the CRB identification badges.

### **Chairman's Report**

Chairman Fritz informed the board that the Executive Director's contract expires on September 22, 2007. Cintron question whether or not City employees received a salary increase for the current year. Willett stated that she had received a salary increase in March 2007 due to the agreement that her salary would be increased pending a six-month evaluation. Cintron advised

that the board should wait until March 2008 to discuss compensation. The board unanimously agreed to renew the Executive Director's contract.

**Public Input**

Scott Harrington      Key West, FL  
John Rotolo, Esquire   Key West, FL  
Shahdaroba Rodd      Key West, FL

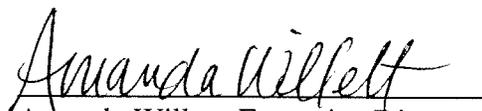
**Media and Press**

None

**Adjournment**

There being no further business, Chairman Fritz adjourned the meeting at 8:47 p.m.

Respectfully submitted by:

  
Amanda Willett, Executive Director

MINUTES  
CITIZEN REVIEW BOARD MEETING  
OLD CITY HALL

Monday, July 9, 2007

A meeting of the Citizen Review Board of the City of Key West, Florida was held at Old City Hall on 510 Greene Street, Monday, July 9, 2007.

Chairman Adare Fritz called the meeting to order at 6:00 p.m.

Answering roll call were Chairman Adare Fritz and Board Members Trice Denny, Michael Driscoll, Bryan Green, Mark Kielsgard and Reverend Thornton.

Dr. Susan White attended telephonically.

Executive Director Amanda Willett was absent.

Also present were Counselor Robert Cintron and Lt. Jim Benkoczy.

All present pledged allegiance to the flag of the United States of America.

**Approval of Minutes**

Chairman Adare Fritz presented the minutes of May 14, 2007. Reverend Thornton moved to approve the minutes. Bryan Green seconded. Hearing no objections the minutes were approved.

**Approval of Agenda**

Chairman Adare Fritz presented the agenda. Hearing no objections the agenda was approved.

**Complaint Reviews**

**A. Scott Harrington**

The board discussed the videotape complaint submitted by Scott Harrington. Mr. Harrington advised the board that the videotape was his attempt to apprise the board of what is happening in Bahama Village with KWPD officers. Mike Driscoll commented that in reviewing the tape, there was no evidence of police officer taking any of the actions of misconduct that Mr. Harrington had described. Bryan Green stated that there wasn't anything on the videotape that would be considered a complaint that was not dealt with in March 2005; however, it could be useful in setting the scene for incidents which may have flowed from that. Mark Kielsgard stated that the videotape is probable in establishing a common series of allegation of harassment but he does not see it as a separate complaint. Kielsgard further stated that it could be considered only for the sake of whether or not it bolsters current complaints and then list it as evidence from that. Rev. Thornton questioned the Mr. Harrington as to the purpose of the tape. Counselor Cintron advised the board to allow Mr. Harrington to address the board and explain what his complaint is about so everyone has the same understanding. Mr. Harrington read a statement prepared by him to the board which addressed several past incidents with the KWPD exhibiting pattern and practice of harassment. Mr. Harrington asserted that he has additional videotapes to

support his statement. The board requested Mr. Harrington provide the aforementioned tapes to the board so they may review them in which Mr. Harrington replied that the board would need to subpoena him for the videotapes. Fritz responded to Harrington that the board needs to review all video in order for the board to rule accordingly on his cases. Mr. Harrington agreed to relinquish a copies of the additional video footage on the basis that the Executive Director meet with him to review the entirety of videos. Kielsgard moved that Mr. Harrington's cases be continued until the board has had an opportunity review the additional information/videotapes. Michael Driscoll seconded the motion. Green stated that there are two separate complaints that are not affected by the review of additional video, although they may serve a background to the complaint. Kielsgard offered to amend his motion for the board to consider those two other complaints for discussion this evening. Cintron advised the board that it would be prudent to discuss and determine all of Mr. Harrington's complaints once the board has received and reviewed all of the information. The board agreed to postpone the consideration of all of Mr. Harrington's complaints until additional information and videotapes have been submitted and reviewed in order to have a complete and thorough assessment.

Yeas:

Trice Denny, Michael Driscoll, Bryan Green, Mark Kielsgard, Reverend Thornton and Adare Fritz

Nays:

None.

Motion passed.

#### **B. Dwayne Norris**

Bryan Green led the discussion of the complaint filed by Dwayne Norris and provided the board with background and detailed information from his review of the case. Green found that it was unacceptable for Officer Connell to make a statement to the Monroe County Sheriff's deputies regarding a taser which resulted in the complainant to become in an agitated state after being subdued by Officer Sealey previously in the EMT transport to the hospital. Green stated that IA had failed to investigate the situation at the hospital and interview the doctor and nurse as to their version of what occurred. Green questioned who authorized the doctor to give the injection to complainant. Lt. Benkoczy responded that police officers do not have the authority to direct medical personnel to give injections to people. Green also commented that there are some discrepancies in the timeline of events when Mr. Norris fell off the gurney. Lt. Benkoczy discussed the use of force matrix, including the use of tasers by Monroe County Sheriff's deputies, and the department's policy of officer safety in response to combative individuals. Kielsgard stated the issue is whether the statement concerning the use of the taser was made to provoke a reaction from the complainant. Dr. White commented that the police are acting in accordance to their training, unfortunately complainants involved in these situations are not aware that they are invoking such a response from the police officers. Cintron advised that the board should have the doctor and nurse interviewed as to details of what transpired that evening in the hospital. Green moved to table the discussion of the case until the next meeting provided that the hospital staff that was involved in the incident has been interviewed and also when Mr. Norris' attendance of the meeting would be certain. Kielsgard seconded motion.

Yeas:

Trice Denny, Michael Driscoll, Bryan Green, Mark Kielsgard, Reverend Thornton and Adare Fritz

Nays:

None.

Motion passed.

### **C. Omar Brown**

Mark Kielsgard outlined the allegations in the complaint filed by Omar Brown. Kielsgard stated that Mr. Brown's case is scheduled for jury trial on July 23, 2007 and it is the board's policy to review a complaint once the complainant's disposition has been issued by the court. Kielsgard moved to continue the discussion of this case after the completion of Mr. Brown's trial. Bryan Green seconded the motion.

Yeas:

Trice Denny, Michael Driscoll, Bryan Green, Mark Kielsgard, Reverend Thornton and Adare Fritz

Nays:

None.

### **New or Continued Business**

Counselor Cintron provided the board with background information concerning the letter from Warren Carl Drysdale addressed to former Chairman Charles Lee and Shawn Smith, City Attorney. Cintron advised the board that Mr. Drysdale may have a worthy lawsuit, however, the board should not interject itself into the matter unless Mr. Drysdale is being singled out by police officers for mooring his vessel in the area described. Fritz mentioned to the board that he had an encounter Mr. Drysdale and advised him to file a complaint with the CRB. Cintron explained that Mr. Drysdale's letter can serve as a continued complaint. The board agreed to pursue Mr. Drysdale's case and investigate the matter of selective enforcement.

Dennis Cooper gave the board a clarified explanation of his email to the board concerning CRB's former investigator Jim Young suing the City of Key West.

### **Counsel's Report**

Counselor Cintron provided the board with an overview of the recent amendments to Florida Statutes 112.532, which outlines procedures for Internal Affairs investigations and 112.533, which puts more validity into the investigations conducted by Internal Affairs by requiring the investigator to sign the report under oath with penalty of perjury.

Counselor Cintron stated the he would check with his assistant and update the board on the status of filing the revised declaratory judgment.

### **Board Members' Report**

Rev. Thornton addressed the board regarding the possibility of having identification badges for board members which would provide the individual members with identification purposes for all matters relating to the CRB. The board agreed and directed Amanda Willett to contact the City to obtain the identification badges for the board members.

### **Executive Director's Report**

The Executive Director's Report was deferred until the next meeting due to the absence of Amanda Willett at the meeting.

### **Chairman's Report**

Chairman Fritz discussed upcoming board meeting dates and commended the new board members on their participation and contribution.

### **Public Input**

Scott Harrington	Key West, FL
Jason Smith, Esquire	Key West, FL
Dennis Cooper	KWTN
Rhonda Linseman	KWTN

### **Media and Press**

None

### **Adjournment**

There being no further business, Chairman Fritz adjourned the meeting at 8:10 p.m.

Respectfully submitted by:

  
Amanda Willett, Executive Director

MINUTES  
CITIZEN REVIEW BOARD MEETING  
OLD CITY HALL

Monday, May 14, 2007

A meeting of the Citizen Review Board of the City of Key West, Florida was held at Old City Hall on 510 Greene Street, Monday, May 14, 2007.

Vice-Chairman Adare Fritz called the meeting to order at 6:00 p.m.

Answering roll call were Chairman Charles Lee, Vice-Chairman Adare Fritz and Board Members Bryan Green, Mark Kielsgard, Reverend Thornton and Dr. Susan White.

Absent:           Tony Estenoz

Also present were Counselor Robert Cintron, Executive Director Amanda Willett and Inspector Lisa Caicedo.

All present pledged allegiance to the flag of the United States of America.

**Approval of Minutes**

Vice-Chairman Adare Fritz presented the minutes of March 12, 2007. Mark Kielsgard moved to approve the minutes. Adare Fritz seconded. Adare Fritz presented the minutes of March 26, 2007. Susan White moved to approve the minutes. Mark Kielsgard seconded. Vice-Chairman Adare Fritz presented the minutes of April 9, 2007. Reverend Thornton moved to approve the minutes. Mark Kielsgard seconded. Hearing no objections the minutes were approved.

**Approval of Agenda**

Vice-Chairman Adare Fritz presented the agenda. Hearing no objections the agenda was approved.

**Complaint Reviews**

A.       Scott Harrington

Mr. Harrington requested that the board defer discussing his case until the next board meeting when his attorney would be able to attend. The board agreed to postpone Mr. Harrington's case until the June 11, 2007 board meeting. Dr. White had requested that the board set a time limitation for complainants to address the board. Dr. White had also stated that the complainants in the past will reiterate the complaint to the board and this is a repetitive process as the board has reviewed the complaint and documentation before the meeting. Chairman Lee discussed that the board has always allowed complainants to make statements either before or after their case has been discussed by the board. Vice Chairman Fritz stated that decorum is important for the meeting and suggested that Mr. Harrington's statements be limited to the cases that are under review as well as a time frame for the board to hear his comments. Counselor Cintron reminded the board that they are in a quasi judicial position of reviewing cases, which means that due process is a part of that. Cintron further commented that one of the most

fundamental aspects of due process is for the right of parties to be heard, but a reasonable time limit can be put on the complainant's presentation in which the statements must be germane to the case that is being discussed. Vice-Chairman Fritz agreed and stated that when Mr. Harrington's case is scheduled to be heard by the board next month, a three to five minute presentation would be an adequate time length for the Mr. Harrington as well as future complainants to address the board concerning their case.

B. Melissa Towe

Mark Kielsgard provided the board with a brief summation and recounted the facts of the Melissa Towe case. Kielsgard moved that the board make a finding of not involved due to the lack of sufficient evidence to show that Officer O'Connell was the officer that had engaged in the behavior. Kielsgard sought that in addition to the finding, the board should also make public record, via a letter to Chief Mauldin, the fact that this represents a failure on the part of Internal Affairs to adequately investigate the case. Kielsgard believed there was ample evidence to show that the misconduct occurred, whether it was committed by KWPD or another agency, a serious investigation should be undertaken to see who is responsible. Kielsgard stated that Internal Affairs should have interview other police agencies. Reverend Thornton seconded the motion.

Discussion: Fritz agreed with Kielsgard's finding and added that Mr. Borowski, who was restrained and intoxicated, was in full view of the complainant at the time that he saw her being struck by an officer, however, IA failed to interview him in their investigation. Fritz continued that although the CRB investigator did interview Mr. Borowski, so much time had passed since the incident he could not make positive identification of the officer that allegedly took the action. Green stated that IA failed to interview the friend of McGraw to corroborate McGraw's testimony. Green further stated Internal Affairs failed to include in their initial investigation all phone logs between Internal Affairs and Melissa Towe which would have revealed her exact statements when she first contacted KWPD. Although Internal Affairs did make reference of those calls in the follow up investigation to the CRB investigator, they did not provide the phone logs to the CRB. Green continued that Internal Affairs should have provided a photo identification to identify the officers to Ms. Towe since the investigation was done to determine which officer struck her. Green also stated Internal Affairs avoided many of the issues raised by the CRB investigator. Lee commented that IA should have interviewed the other police officers from other agencies that were on the scene that evening. Dr. White stated that the least persuasive part of this case was that Ms. Towe was deliberately hit by a police officer while she was handcuffed with 20 to 50 people present as witnesses. Dr. White also stated the injuries that Ms. Towe was complaining about could be same injuries she received when she fell down the stairs. Dr. White did agree that it was important to remind Internal Affairs that they conducted a poor investigation for this case however Internal Affairs is doing a better job than what the board has seen with past investigations.

Yeas:

Adare Fritz, Mark Kielsgard, Reverend Thornton, Dr. Susan White and Charles Lee

Nays:

None

Motion passed.

## **Counsel's Report**

Counselor Cintron updated the board on the revised declaratory judgment has been drafted but has not been filed yet.

### **New or Continued Business**

Willett reported to the board that Jim Young had informed her that he is now employed full time with Monroe County and will no longer be able to provide his services as a private investigator for the CRB. Willett contacted Tom D'Aiuto who would be available to provide investigative services for the board however; there would be a delay of 45 day return on investigative reports due to his work load and relocation. Fritz directed Willett to clarify with Tom D'Aiuto on his fees and rates as it was indicated to the board that there was an increase and to also begin advertisement for a new investigator.

Kielsgard discussed with the board that he was approached by an individual who had witnessed an incident that involved a KYPD officer, City of Key West employee and a homeless man but was unwilling to file a complaint. Kielsgard stated that we ought to request that an investigation be conducted concerning this incident and that he would provide pertinent information to Willett concerning the individual in order to begin the process.

Green discussed with the board concerning the public records request made by Dennis Cooper for a complaint filed by Cesar Balbin. Green suggested that the board receive a copy of that complaint prior to the completion of the IA's investigation so the board may have knowledge of it in case there is any media attention. Cintron stated if the board members are approached by the media asking questions about a case, the board members should have fair knowledge about the case but to remember that the board should not discuss the merits of the case until the Internal Affairs has concluded their investigation. Chairman Lee discussed with the board that since the reversal of the confidentiality issue where the complaint is now an immediate public record, the Chairman will be notified about new incoming complaints. Kielsgard moved to that the Executive Director provide the Chairman with all newly filed complaints and also provide the board with all complaints in which a public records request has been filed with the CRB for such complaint.

Yeas:

Adare Fritz, Mark Kielsgard, Reverend Thornton, Dr. Susan White and Charles Lee

Nays:

None

Motion passed.

Willett notified the board about a former complainant who is requesting that the board review a new incident which currently has a pending criminal case with the court. Cintron stated that he had reviewed the information and suggested that the board wait until the criminal case was resolved first before the board reviews the case.

## **Executive Director's Report**

Willett informed the board that the CRB budget review meeting with the City Manager and Commissioner is scheduled for June 5, 2007 at 1:00 p.m. Cintron and Chairman Lee agree to attend the meeting. Fritz commented that he would also like to be present for the budget meeting. Cintron responded that it would be necessary to first determine if there are any Sunshine Law violations in having two board members attend the budget meeting.

Willett discussed with the board the training aspect of the new board members. Dr. White proposed a training schedule that encompasses the KWPD, State Attorney, Counselor Cintron, Willett and former executive director Vicki Grant educating the new members about CRB procedures and polices, legal constraints on police behavior and police procedures. Kielsgard recommended that the board also receive training on Rules of Evidence on how to assess evidence for CRB cases.

## **Chairman's Report**

Chairman Lee reminded the board that Counselor Cintron's contract will expire in June 2007. Kielsgard moved to renew Cintron's contract. Fritz seconded the motion.

Yeas:

Adare Fritz, Mark Kielsgard, Reverend Thornton, Dr. Susan White and Charles Lee

Nays:

None

Motion passed.

## **Public Input**

Dennis Cooper      KWTN  
Scott Harrington    Key West, FL

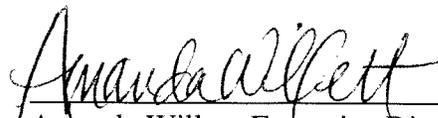
## **Media and Press**

None

## **Adjournment**

There being no further business, Vice-Chairman Fritz adjourned the meeting at 8:50 p.m.

Respectfully submitted by:

  
Amanda Willett, Executive Director

MINUTES  
CITIZEN REVIEW BOARD MEETING  
OLD CITY HALL

Monday, April 9, 2007

A meeting of the Citizen Review Board of the City of Key West, Florida was held at Old City Hall on 510 Greene Street, Monday, April 9, 2007.

Chairman Charles Lee called the meeting to order at 6:00 p.m.

Answering roll call were Chairman Charles Lee and Board Members, Tony Estenoz, Adare Fritz, Mark Kielsgard, Reverend Jim Thornton and Dr. Susan White.

Also present was Counselor Robert Cintron and Executive Director Amanda Willett. There was no representation from Key West Police Department or Internal Affairs.

All present pledged allegiance to the flag of the United States of America.

**Board Member Candidate Interviews**

This meeting was conducted specifically to interview candidates and to select a new board member. The board interviewed the following candidates: Robert Botic, Michael Driscoll, Bryan Green and Fred Marchak. After thorough discussion and consideration of all the candidates, the board unanimously selected Bryan Green as the new board member to replace Chairman Charles Lee's expiring term.

**Public Input**

Robert Botic	Key West, FL
Michael Driscoll	Key West, FL
Bryan Green	Key West, FL
Fred Marchak	Key West, FL

**Media and Press**

None

**Adjournment**

There being no further business, Chairman Lee adjourned the meeting at 8:20 p.m.

Respectfully submitted by:



Amanda Willett, Executive Director

MINUTES  
CITIZEN REVIEW BOARD MEETING  
OLD CITY HALL

Monday, March 26, 2007

A meeting of the Citizen Review Board of the City of Key West, Florida was held at Old City Hall on 510 Greene Street, Monday, March 26, 2007.

Chairman Charles Lee called the meeting to order at 6:00 p.m.

Answering roll call were Chairman Charles Lee and Board Members Adare Fritz, Mark Kielsingard, Jane Rohrschneider and Dr. Susan White.

Absent: Tony Estenoz and Reverend Jim Thornton

Also present was Counselor Robert Cintron, Executive Director Amanda Willett and Lieutenant Jim Benkoczy.

All present pledged allegiance to the flag of the United States of America.

**Approval of Minutes**

Chairman Charles Lee presented the minutes of February 12, 2007. Board member Adare Fritz moved to approve the minutes. Board Member Jane Rohrschneider seconded. Hearing no objections the minutes were approved.

**Approval of Agenda**

Chairman Charles Lee presented the agenda. Chairman Lee suggested moving New or Continued Business – Confidentiality Policy to be discussed before Counsel's Report. Hearing no objections the agenda was approved.

**Complaint Reviews**

None

**New or Continued Business**

**A. Confidentiality Policy**

Dr. White discussed with the board her research of the CRB Charter, *Cooper v. Dillon* case, and the Florida Statutes concerning the board's confidentiality policy. Lieutenant Benkoczy informed the board that the PBA would not be attending the board meeting. Counselor Cintron discussed with the board the 2006 Attorney General opinion and history of how the board determined their current confidentiality policy when they were first created. Kielsingard stated

that the board needed a judicial ruling on the confidentiality policy. Cintron agreed that it was a very important issue and the court needs to determine the answer to the question. Chairman Lee questioned how the re-filing of the declaratory action would result in obtaining a court ruling considering the board had once before unanimously agreed to file a declaratory judgment in order for the court to make a decision and nothing was decided which resulted in dismissal of the lawsuit. Cintron responded that the reason the declaratory action was not beneficial was because the competing party, which would have been either the PBA or the ACLU, never joined in the declaratory judgment. Considering the difficulty in reaching a decision as to the confidentiality policy, Fritz proposed the concept that instead of accepting complaints, the CRB would log in a complaint and have the complainant file the complaint directly with Internal Affairs. Dr. White stated that procedure would undercut the CRB establishment, which was to be an alternative venue to accept complaints from the public. Chairman Lee expressed that he believed that the CRB accepting complaints is vital to the existence of the CRB. Kielsgard agreed that it is a core feature of the CRB to receive complaints as well as investigating complaints. Kielsgard questioned whether the board could file for declaratory judgment if the board changed the current confidentiality policy. Cintron responded that the police department would consider the policy change to be a violation of the Policeman's Bill of Rights, leaving the police department to be the only party to the declaratory judgment action. Cintron stated that as long as there is a live controversy where two parties are taking different positions that is the classic reason for a declaratory judgment. Kielsgard proposed that the existing confidentiality policy be rescinded and temporarily suspend the CRB's receipt of complaints as well as file a declaratory judgment. Kielsgard further proposed that the board would be able to receive complaints after a court opinion had been rendered. Chairman Lee expressed that there would be no need to suspend the intake of complaints, the board could simply change the policy and allow a declaratory action to be filed. Dr. White opposed the suspension of taking complaints while waiting for the court to decide on the declaratory judgment as the court could take a substantial amount of time making a decision. Chairman Lee reminded the board that there are other review boards in Florida, such as the City of Miami Citizen Review Board, that consider the complaint to be an immediate public record. Chairman Lee asked the board for a consensus on the confidentiality policy on the idea of reversing the existing policy therefore making the complaints an immediate public record and also seek a court opinion as in filing a declaratory judgment. Cintron explained the court process of re-filing the declaratory judgment to the board. Kielsgard stated that if the CRB suspends the confidentiality policy and stopped receiving complaints, the police would not have any incentive to be a party to the declaratory judgment or take any legal action. Rohrschneider stated that she was in favor of filing the declaratory judgment naming the police department as a party, however she preferred to keep the existing confidentiality policy in place and wait for a decision from the court on how to proceed. Rohrschneider further stated that if the court determines that the confidentiality policy is wrong, then the board should cancel the policy. Chairman Lee inquired as to whether the board could agree on the new policy and have a united vote. Cintron stated that two of the board members were not present for the meeting and the board couldn't determine what their vote would be. Fritz stated that he was not in favor of the new policy, however if it would help the board proceed past the issue then he would support it. Kielsgard moved that the board suspend the existing confidentiality policy and instruct Cintron to re-file the declaratory action naming the police with regard to our rights on the confidentiality policy. Dr. White seconded the motion.

Yeas: Adare Fritz, Mark Kielsingard, Jane Rohrschneider, Dr. Susan White and Charles Lee

Nays: None

Motion passed.

### **Counsel's Report**

Cintron proposed to the board an open letter to the public that he drafted concerning the history of the CRB and addressing the recent media related commentaries surrounding the confidentiality policy. Kielsingard objected to releasing the letter to the public. Cintron suggested deferring the matter to be discussed until the next board meeting when all of the members who were mentioned in the press would be able to discuss the matter. Cooper stated that once the board has approved the letter, that he would publish it in Key West The Newspaper. Chairman Lee requested that the board provide their input and responses to Cintron so the open letter could be revised accordingly.

### **Board Members' Report**

Dr. White discussed with the board the aspect of community outreach directing the Executive Director speaking with different civic organizations. Chairman Lee informed the board that the Chairman and the Executive Director are giving a presentation on the CRB to the Ambassador's class on March 29, 2007. Chairman Lee suggested that board members should also be actively involved in the speaking to other civic groups.

### **Chairman's Report**

Chairman Lee discussed with the board the issues regarding attendance and attending future board meetings via conference phone.

### **Executive Director's Report**

Willett informed the board that she had solicited various civic organizations for new board members and has received a total of four applications thus far. Willett also discussed the impending deadline on receiving application and scheduling the interviews of the applicants. The board agreed to interview all candidates at the next scheduled board meeting on April 9, 2007. Willett distributed a list of proposed interview questions for the board to consider asking the candidates during their interview.

### **Public Input**

Dennis Cooper           KWTN  
Mick Barnes, Esquire Key West, FL

**Media and Press**

None

**Adjournment**

There being no further business, Chairman Lee adjourned the meeting at 7:50 p.m.

Respectfully submitted by:



Amanda Willett, Executive Director

MINUTES  
CITIZEN REVIEW BOARD MEETING  
OLD CITY HALL

Monday, March 12, 2007

A meeting of the Citizen Review Board of the City of Key West, Florida was held at Old City Hall on 510 Greene Street, Monday, March 12, 2007.

Chairman Charles Lee called the meeting to order at 6:00 p.m.

Answering roll call were Chairman Charles Lee and Board Members, Adare Fritz, Jane Rohrschneider and Dr. Susan White.

Mark Kielsgard attended telephonically.

Absent: Tony Estenoz and Reverend Jim Thornton

Also present was Counselor Robert Cintron, Executive Director Amanda Willett and Captain Donnie Lee.

All present pledged allegiance to the flag of the United States of America.

### **Approval of Minutes**

Chairman Charles Lee announced to the board that the February 12, 2007 Minutes are being reviewed and will be available for approval at the next board meeting.

### **Approval of Agenda**

Chairman Charles Lee presented the agenda. Chairman Lee recommended moving Counsel's Report to be heard before Complainant Reviews since Complainant Zachary Brown arrived late for the meeting. Hearing no objections the agenda was approved.

### **Counsel's Report**

Counselor Cintron discussed with the board the confidentiality issue that the board has been addressing. Cintron stated that he had suggested inviting Dr. Cooper, the ACLU and PBA to also speak to the board regarding their position to allow fair input as to the board's confidentiality policy. He also stated that the board had decided this issue several times and it is important to both the police department and to Dr. Cooper that they feel that the board make the right decision on this issue. Cintron announced that at the executive meeting, the board decided to dismiss the declaratory judgment action and that the lawsuit has now been dismissed without prejudice. The board at that time had also voted to remain with its existing confidentiality policy. Dr. Cooper stated that he and the ACLU had given the board their positions in writing as well the Attorney General. Attorney Mick Barnes was present and addressed the board at the request of Dennis Cooper concerning the board's current 45 day confidentiality policy. Barnes discussed with the board that it was never the intention of the Committee for Citizen Review Board or the original founders to keep complaints against police officers confidential for 45 days while the investigation is ensuing and that the all documents filed with the CRB are a matter of

public record pursuant to the Florida Public Records Law. Chairman Lee requested whether the board wanted to reconsider the previous vote on the confidentiality policy. Dr. White moved for the board to reconsider the confidentiality policy whereby incoming complaints received by the CRB are considered as an immediate public record. Motion died due to the lack of a second. Kielsingard stated that he would be physically present for the next board meeting on March 26, 2007 and that the board could reconsider the vote again at that time. Cintron reminded the board of the possible ramifications of the decisions made concerning the confidentiality policy. If the board continues to take the position that the incoming complaints are confidential for 45 days, the board may be subject to a civil lawsuit that the board is violating the Sunshine Law and also the possibility of a criminal prosecution. If the board makes the decision to have the complaints considered as an immediate public record, there may be the possibility of the PBA or someone else could file a civil lawsuit against the board for violating the confidentiality provisions of the Policeman's Bill of Rights. Chairman Lee stated that the board would reconsider the vote at the next scheduled meeting when a full board is present.

## **Complaint Reviews**

### **A. Zachary Brown**

Cintron stated that upon his review of the first injunction that Mr. Brown was in violation of the injunction simply by being in the presence of and having contact with his daughter and also by being within 500 feet of his ex-girlfriend at the city pool which was the causation for his arrest. Mr. Brown stated he knew that the police had been called and that was the reason he came to the pool because he knew that they were going to look for him anyway. Cintron stated that when the police officers verified the injunction was in effect, Mr. Brown was in violation of it even though it was an unintentional violation. Kielsingard stated that the police officers are only looking at the objective facts of Mr. Brown being in the proximity of his ex-girlfriend which was a violation of the injunction and the arrest is the procedure that the police have to follow. Fritz agreed that the arrest conducted was appropriate according to the injunction and facts of the case. Fritz stated that as the board has carefully and thoroughly evaluated the case, he moved to agree with IA's findings that the involved officers did not violate any departmental directives and to close the case. Dr. White seconded the motion.

Yeas: Adare Fritz, Jane Rohrschneider, Dr. Susan White and Charles Lee

Nays: None

Motion passed.

## **New or Continued Business**

### **A. Timothy Stennings**

The board discussed the letter received from the PBA in response to the board's letter to Chief Mauldin concerning Timothy Stennings case. The board agreed not to respond to the PBA letter.

## **Executive Director's Report**

Willett updated the board as to the status of board applicants. The board directed Willett to solicit civic and social organizations for additional applicants.

**Chairman's Report**

Chairman Lee discussed the six month review and salary increase of Executive Director. Jane Rohrschneider moved to authorize a salary increase for the Executive Director. Fritz seconded the motion.

Yeas: Adare Fritz, Jane Rohrschneider, Dr. Susan White and Charles Lee

Nays: None

Motion passed.

**Public Input**

- Dennis Cooper           KWTN
- Mick Barnes, Esquire   Key West, FL
- Zachary Brown         Key West, FL
- Laura Brown            Key West, FL
- Kat Watts                City of Key West Internal Auditor

Ms. Watts introduced herself to the board and discussed her role as Internal Auditor with the City of Key West.

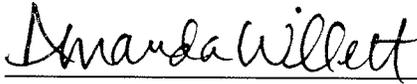
**Media and Press**

None

**Adjournment**

There being no further business, Chairman Lee adjourned the meeting at 7:40 p.m.

Respectfully submitted by:

  
 \_\_\_\_\_  
 Amanda Willett, Executive Director

MINUTES  
CITIZEN REVIEW BOARD MEETING  
OLD CITY HALL

Monday, February 12, 2007

A meeting of the Citizen Review Board of the City of Key West, Florida was held at Old City Hall on 510 Greene Street, Monday, February 12, 2007.

Chairman Charles Lee called the meeting to order at 6:00 p.m.

Answering roll call were Chairman Charles Lee and Board Members Tony Estenoz, Adare Fritz, Jane Rohrschneider and Dr. Susan White.

Mark Kielsingard attended telephonically.

Absent:            Reverend Jim Thornton

Also present was Counselor Robert Cintron, Executive Director Amanda Willett and Lt. Jim Benkoczy.

All present pledged allegiance to the flag of the United States of America.

**Approval of Minutes**

Chairman Charles Lee presented the minutes of January 22, 2007. Board member Adare Fritz moved to approve the minutes. Board Member Tony Estenoz seconded. Board member Mark Kielsingard provided an addition to the minutes concerning his comments on the David Millette complaint review. Chairman Lee stated that hearing no objections to the changes to the minutes, the minutes would be amended as stated by Kielsingard. Lee directed Willett to redistribute the minutes to the board members with the stated amendments.

**Approval of Agenda**

Chairman Charles Lee presented the agenda. Chairman Lee recommended moving Continued or New Business to be heard immediately after Complainant Reviews. Hearing no objections the agenda was approved.

**Complaint Reviews**

**A.     David Millette**

David Millette was present for the meeting and reiterated the events stated in his complaint. Fritz provided the board with a brief summation of the Millette case. Cintron discussed the possibility of improper actions of the police in their issuing Mr. Millette with several non-criminal traffic infractions for the same offense after Magistrate Slaton dismissed the initial citation of the same offense. Kielsingard stated that the police cannot reasonably rely upon the representations of the state attorney over the representations of the county judge. Lt. Benkoczy addressed the board and stated that the state attorney's office continues to advise the police that the operation of unlicensed gopeds on city streets is illegal and it is the state attorney's intention to take it to court

the next time a citation is issued. Lt. Benkoczy further stated that it is the police department's intention to issue a citation so the matter can be addressed in court and appealed in a timely manner in order to obtain an appellate ruling. Dr. White moved to leave the legality of whether Mr. Millette can operate an unlicensed goped on city streets as a matter for the courts to decide and for the police department and state attorney's office to bring forth a case on appeal. Fritz seconded the motion.

Yeas: Tony Estenoz, Adare Fritz, Jane Rohrschneider, Dr. Susan White and Charles Lee

Nays: None

Motion passed.

Cintron discussed with the board with the issue of the allegation of a false statement in the police report. Mr. Millette stated that the police did not indicate the time of the incident on the report as well as the report also contained an untruthful statement that Mallory Square was crowded with people at the time of the incident. Chairman Lee proposed that the file be returned to the executive director so she could redirect the board to review the allegation of false statement and obtain a CAD report to determine the time the incident occurred. Kielsingard commented that it was a matter of interpretation of whether Mallory Square was crowded or not and Mr. Millette had received a favorable interpretation as his case was previously dismissed in court. Fritz questioned how the determination of time of when the arrest occurred would ultimately affect the outcome of the case. Kielsingard suggested that a motion be made to find the allegations of material false statements in the police report to be unfounded. No motion was made to that allegation. Rohrschneider then moved that the board should take the time to review the case again with regard to the allegation of false statement. Motion died due to lack of a second. Estenoz moved to close the case. Fritz seconded the motion.

Yeas: Tony Estenoz, Adare Fritz, Jane Rohrschneider, Dr. Susan White and Charles Lee

Nays: None

Motion passed.

Discussion: Cintron reminded the board that when a citizen complains that a police officer has stated material facts in a police report that are false, whether or not the person is convicted or not convicted of the crime, the issue of what is put into the police report is very important because police officers will rely on their reports to testify in court. Kielsingard stated his disappointment that the board did not address the issue concerning the authority of a police to be reasonably authorized to rely on representations of the state attorney over the county court's decisions. He further stated that it was the state attorney who had failed in this matter due to the untimely appeal and that Mr. Millette should be entitled to bring about a malicious prosecution charge. Lee commented that it would be Mr. Millette's attorney to advise him of prosecuting for that charge and not the CRB. Mr. Millette made some final departing statements to the board including that he has been treated badly by police officers in Key West for the past 10 years.

## **B. James Grattan**

Mr. Grattan was present for the meeting and addressed the board concerning his complaint. Rohrschneider led the discussion concerning the complaint filed by Mr. Grattan. Lee stated that

he couldn't identify an issue of police misconduct. Estenoz had discussed a previous case wherein a citizen had a confrontation with a person, who was an officer and had showed his badge during the incident. Lt. Benkoczy stated that Officer Hadas had shown her badge only as a matter of courtesy and that she felt compelled to properly identify herself as a police officer since Mr. Grattan had told Officer Hadas that he had contacted police. Lt. Benkoczy further stated that Officer Hadas did not show her badge in an official capacity to take any official action and nor did she take any official action. Dr. White moved to accept Internal Affairs' finding that the complaint filed by James Grattan does not constitute a violation of law or departmental directive. Fritz seconded the motion.

Discussion: Kielsingard agreed with the determination made by Internal Affairs and stated that Internal Affairs' report did accurately reflect the idea that while officers are obliged to act in an honorable manner, they are entitled to the normal behavioral responses to threatening or stressful situations while off duty.

Yeas: Tony Estenoz, Adare Fritz, Jane Rohrschneider, Dr. Susan White and Charles Lee

Nays: None

Motion passed.

### C. **Zachary Brown**

Zachary Brown was present for the meeting and began to address the board concerning his complaint. Mr. Brown's complaint involves two separate incidents with the first one occurring in April 2000 and the second one occurring in August 2004. Chairman Lee advised Mr. Brown that it is board policy for board members to vote in order to hear a case wherein the incident occurred prior to the inception of the CRB in 2002. Mr. Brown addressed the board concerning why the board should hear his complaint concerning the incident in 2000 and discussed how both incidents are related to one another. Dr. White moved to hear the case. Fritz seconded the motion.

Yeas: Tony Estenoz, Adare Fritz, Jane Rohrschneider, Dr. Susan White and Charles Lee

Nays: None

Motion passed.

Mr. Brown discussed the events that led to his arrest at the city swimming pool. Dr. White clarified with Mr. Brown that he was arrested for violating the protective order and that the officer called dispatch to verify the protective order was still in effect in order to make the arrest. Kielsingard believed that the board has unopposed evidence that the officer contacted the dispatch to determine that the protective order was still valid and after confirmation of such, the officer had probable cause to make the arrest. Kielsingard stated that unless Mr. Brown can prove that there was actual or malicious intent or prove the officer was relying upon something arbitrary instead of having the decision confirmed by dispatch, then there is no case made for false arrest. Mr. Brown stated that there was also a modification of that protective order which he had a copy of inside of his home and that his information was more current than that of the officer's information given through dispatch. Mr. Brown also stated that the officer was unwilling to go to his home to retrieve the modification of the protective order. Lt. Benkoczy stated the police

department's policy and procedure is to verify the restraining order is still active through dispatch through the county clerk's office, if that answer is affirmative, then that gives the officer probable cause to act and that is the department's standard operating procedure which is what happened in this case. Chairman Lee commented that the officers acted correctly in this situation as it is up to the court to decide and not for an officer to go in Mr. Brown's house to obtain the modified protective order and then make a legal determination. Kielsingard affirmed that officers are not obligated to go into a person's house and search for documents and that they were only obligated to confirm the allegations that Mr. Brown was in violation of the protective order, which they did. Kielsingard pointed out that from the statements made by Mr. Brown that it does not appear that Lt. Benkoczy's participation in the incident as well as his Internal Affairs' investigation of the case would create a contradictory position between himself and Mr. Brown. Cintron discussed with the board the difficulty of determining this case without first reviewing the initial injunction as it may clarify Mr. Brown's legal requirements. Cintron read a statement into the record from the lifeguard that was present at the time of the incident at the pool. Cintron questioned whether Mr. Brown was arrested for going to the pool or because he was within 10 feet from the mother of his daughter while police were there. Fritz moved to defer the issue until the next board meeting during which time the first injunction can be produced in order for the board to examine it and make a decision on how to proceed. Rohrschneider seconded the motion.

Yeas: Tony Estenoz, Adare Fritz, Jane Rohrschneider, Dr. Susan White and Charles Lee

Nays: None

Motion passed.

### **New or Continued Business**

#### **A. Timothy Stennings**

The board had reviewed a letter submitted by Charles Lee in response to Chief Mauldin's letter dated January 3, 2007. The board and Counselor Cintron agreed this finalized letter should be forwarded to the Chief.

### **Counsel's Report**

Counselor Cintron advised the board of the necessity of having an executive session meeting to discuss the pending litigation concerning the declaratory judgment lawsuit. Cintron also discussed the letter received from Dennis Cooper regarding his opposition to the board's confidentiality policy. Lee questioned whether the board members would be in favor of discussing or voting to keep the confidentiality policy the same or to change the policy and have all complaints to be an immediate public record. Dr. White commented that the board should wait on voting again and have the executive session first to discuss the lawsuit. Estenoz moved to have an executive session meeting. Rohrschneider seconded the motion.

### **Executive Director's Report**

None

## **Chairman's Report**

Chairman Lee discussed expiring board member terms and advertising for those board positions in the newspaper.

## **Public Input**

James Grattan	Key West, FL
David Millette	Key West, FL
Zachary Brown	Key West, FL
Laura Brown	Key West, FL

## **Media and Press**

None

## **Adjournment**

There being no further business, Chairman Lee adjourned the meeting at 8:20 p.m.

Respectfully submitted by:

  
Amanda Willett, Executive Director

MINUTES  
CITIZEN REVIEW BOARD MEETING  
OLD CITY HALL

Monday, January 22, 2007

A meeting of the Citizen Review Board of the City of Key West, Florida was held at Old City Hall on 510 Greene Street, Monday, January 22, 2007.

Chairman Charles Lee called the meeting to order at 6:00 p.m.

Answering roll call were Chairman Charles Lee and Board Members Adare Fritz, Jane Rohrschneider, Reverend James Thornton and Dr. Susan White.

Mark Kielsgard attended telephonically.

Absent: Tony Estenoz

Also present was Counselor Robert Cintron, Executive Director Amanda Willett and Inspector Lisa Caicedo.

All present pledged allegiance to the flag of the United States of America.

**Approval of Minutes**

Chairman Charles Lee presented the minutes of January 8, 2007. Board member Adare Fritz moved to approve the minutes. Board Member Jane Rohrschneider seconded. Hearing no objections the minutes were approved.

**Approval of Agenda**

Chairman Charles Lee presented the agenda. Hearing no objections the agenda was approved.

**Complaint Reviews**

**A. Complainant (Name has been withdrawn due to the complainant's status as a minor.)**

Mr. and Mrs. Malby were present for the meeting and addressed the board concerning the complaint filed on behalf of their grandson, the complainant. Adare Fritz led the discussion concerning the complaint filed by complainant. Fritz stated that all of the officers and witnesses that were interviewed took the position that they saw no evidence of use of force which was excessive. Fritz expressed that the use of force was well within the recommended use of force matrix guideline. Fritz indicated that the investigation from IA was complete and thorough as it included not only interviews but surveys of the citizens of the neighborhood. Fritz believed that the photographs are consistent with the actions the officers had taken. The capture of the complainant and subsequent restraint were within the use of force matrix guidelines and based on

that information, Fritz moved to accept IA's findings of not sustained. Dr. Susan White seconded the motion.

Discussion: Kielsgard stated that the photo evidence is usually not terribly impressive immediately after the injury has occurred, however he believes the complainant was injured. Kielsgard pointed out some discrepancies in complainant's statements concerning being handcuffed and questioned whether the injuries that were sustained could have occurred from the fleeing as opposed to takedown that transpired on the deck. Kielsgard stated that based on the lack of evidence to support the complainant's statements concerning the injuries, he is unable to determine how the injuries were sustained and therefore believes IA's finding of not sustained is correct. Chairman Lee further pointed out other discrepancies regarding the officer falling into the swimming pool. Dr. White stated that it was clear that the complainant was running and possibly obtained some cuts and bruises from that action.

Yeas: Adare Fritz, Jane Rohrschneider, Rev. James Thornton, Dr. Susan White and Charles Lee

Nays: None

#### **B. David Millette**

David Millette was present for the meeting and addressed the board concerning his complaint. Dr. Susan White led the discussion regarding the complaint filed by David Millette. Dr. White stated that she believed the complaint to be a court issue. Dr. White further stated that his case is a difference in the interpretation of law between the judge and the police. Cintron questioned whether the state attorney's appeal had been filed and whether the board should consider the case if there is an appeal pending. Kielsgard agreed that it is an issue for the court to decide. Kielsgard also stated that the State Attorney's office was at fault and that the officer could be expected to reasonably rely on the representations made by the state attorney's office. Cintron referenced an email in which the police were informed that state attorney's office would continue to prosecute such cases despite the court's order. Cintron instructed Mr. Millette to provide him with every dismissal order he had received for the same offense and any evidence of being stopped by police subsequent to police issuing a statement that he would not be cited for riding his scooter until the case was appealed or resolved in court. The board agreed that due to impending documentation as requested by Cintron, Mr. Millette's case would be deferred until the next meeting.

#### **C. Joseph Murphy**

Chairman Charles Lee led the discussion concerning the complaint filed by Joseph Murphy. Inspector Lisa Caicedo informed the board that as she approached Officer Mader to begin the process of IA's investigation, Officer Mader notified her that he was moving out of the country and he had also stated that the complainant had drug residue on his tongue. Kielsgard discussed the issue of officers not being interviewed or investigated after they are no longer employed by KWPD or have moved out of Key West area. Kielsgard added that in future case where the officer in question has relocated, request IA pursue the investigation and interview the officer. Chairman Lee commented that there has been a lack of contact from the complainant. Fritz moved to accept IA's findings based on the information given and close the case. Jane Rohrschneider seconded motion.

Discussion: Reverend Thornton discussed the need of having new officers that are assigned to Bahama Village be properly orientated to that area. Chairman Lee asked Inspector Caicedo to discuss with Lt. Ream the training of new officers in Bahama Village. Inspector Caicedo and Chairman Charles Lee discussed the Bahama Village Policing Meeting.

Yeas: Adare Fritz, Jane Rohrschneider, Rev. James Thornton, Dr. Susan White and Charles Lee

Nays: None

### **New or Continued Business**

#### **A. Timothy Stennings**

Cintron presented the board with a draft of a response letter to Chief Mauldin's letter dated January 3, 2007. The board agreed to review the draft letter and discuss it at the next scheduled board meeting.

#### **B. Roseann Kiernan**

Willett informed the board that Mrs. Kiernan had contacted the CRB and desired to address the board concerning her case and that her case be re-opened. Robert advised the board to wait until Mrs. Kiernan's court case has been resolved before hearing her speak before the board.

### **Counsel's Report**

Counselor Robert Cintron informed the board that the Attorney General's office had asked for a brief time to file a response to the complaint and that a responsive pleading should be filed within the next 10 days.

### **Executive Director's Report**

None

### **Chairman's Report**

Chairman Lee discussed expiring board member terms and issues surrounding the conference telephone.

### **Public Input**

Mr. and Mrs. Malby  
David Millette

### **Media and Press**

None

**Adjournment**

There being no further business, Chairman Lee adjourned the meeting at 7:37 p.m.

Respectfully submitted by:

  
Amanda Willett, Executive Director

MINUTES  
CITIZEN REVIEW BOARD MEETING  
OLD CITY HALL

Monday, January 8, 2007

A meeting of the Citizen Review Board of the City of Key West, Florida was held at Old City Hall on 510 Greene Street, Monday, January 8, 2007.

Chairman Charles Lee called the meeting to order at 6:00 p.m.

Answering roll call were Chairman Charles Lee and Board Members, Tony Estenoz, Adare Fritz, Jane Rohrschneider and Dr. Susan White.

Mark Kielsgard attended telephonically.

Absent:            Reverend James Thornton

Also present was Counselor Robert Cintron, Executive Director Amanda Willett and CRB Private Investigator Jim Young. Inspector Lisa Caicedo arrived at 6:45 p.m.

All present pledged allegiance to the flag of the United States of America.

**Approval of Minutes**

Chairman Charles Lee presented the minutes of December 14, 2006. Board member Adare Fritz moved to approve the minutes. Board Member Tony Estenoz seconded. Hearing no objections the minutes were approved.

**Approval of Agenda**

Chairman Charles Lee presented the agenda. Hearing no objections the agenda was approved.

**Complaint Reviews**

A.     Dwayne Norris

Mr. Norris began to address the board concerning his complaint filed with the CRB. Robert Cintron advised Mr. Norris and the board to postpone hearing his case until his criminal court case is resolved in order to protect Mr. Norris' rights. Chairman Lee directed Mr. Norris to communicate with the Executive Director when his case has been resolved and the board will at that time then proceed to review and hear his CRB case.

B.     Vanessa Placencia

Adare Fritz led the discussion regarding the complaint filed by Vanessa Placencia. Fritz stated he believed that the investigation conducted by IA not only was both thorough and complete, but the accused officer acted within a reasonable manner to locate Mr. Carey. Fritz further stated that he supported IA's decision to close the case and therefore moved that the case be closed. Jane Rohrschneider seconded the motion.

Discussion: Dr. Susan White discussed that she was unable to find anything in the investigation where the police had violated policy. Chairman Lee had inquired whether a CAD report was available for the incident concerning the bus stop as it would indicate whether or not Officer Lariz was present at that location. Mark Kielsgard argued the relevance of requesting the CAD report as the officer was investigating a case and as part of his job he could be present at the bus stop. Kielsgard further stated that what the complainant alleged is not misconduct by the police. Fritz added that the officer was in search of Mr. Carey and was not in violation of any police directives confirms that the officer was simply doing his job by visiting the sites indicated.

Yeas: Tony Estenoz, Adare Fritz, Jane Rohrschneider, Dr. Susan White and Charles Lee

Nays: None

C. Roseanne Kiernan

Dr. Susan White led the discussion concerning the complaint filed by Roseanne Kiernan. Dr. White stated that the major allegations were rebutted by testimony of several witnesses and individuals who were present at all of the locations. Dr. White further stated that the complainant's position would have been upheld if one person would have corroborated with the Mrs. Kiernan's statements. Dr. White remarked that there was no reason for the other individuals to lie as they are independent witnesses with no connection to KWPD or Mrs. Kiernan. Dr. White also stated that the photographs indicated that the marks on her wrist were apparent the day after the incident and there has to be an explanation for that, whether they occurred as a result of the handcuffs or some other reason. Chairman Lee commented that Officer Wanciak admitted that she had to reset the handcuffs and that the handcuffs may have caused those marks, but it wasn't out of policy. Kielsgard stated that the officer alleged that the complainant had thanked her for loosening the handcuffs, but the complainant herself never alleged that she had thanked her and it is a question of who to believe. Fritz stated that due the complainant's level of emotion expressed, he felt compelled to discover something of substance in her interviews to help overturn the strength of consistency of the all of the other people interviewed but was unable to find it. From the discussion and reasons expressed, Dr. White moved to agree with IA's findings and exonerate the officer. Adare Fritz seconded the motion.

Yeas: Tony Estenoz, Adare Fritz, Jane Rohrschneider, Dr. Susan White and Charles Lee

Nays: None

### **New or Continued Business**

A. Timothy Stennings

Chairman Lee read an email dated January 8, 2007 to the board from Mr. Stennings regarding his case. Chairman Lee also read a response letter dated January 3, 2007 to the board from Chief Mauldin regarding his response to the CRB letter of why he rescinded the letter of reprimand. Chairman Lee informed the board that they have the option of bringing the case again before the board. Kielsgard stated that it is very important that the CRB set the record straight that we disagree as far as the authority of the CRB and whether or not the CRB can recommend issues that come down to sanctions being imposed. Kielsgard further stated that a letter needed to be drafted to Chief Mauldin outlining that we are disappointed and disagree with his decision and

his interpretation of the CRB statutes and forward a copy of our letter to the City Attorney. Through lengthy discussion and final unanimous agreement of the board, Chairman Lee stated that after Cintron was allowed time to adequately review the letter from Chief Mauldin, a draft response letter would be prepared by Cintron to Chief Mauldin with input from the board members. This draft letter as well as the letter from the Chief will be discussed at the next board meeting. Cintron suggested that the email from Mr. Stennings be forwarded to the Chief and IA.

### **Counsel's Report**

Counselor Robert Cintron reported that a summons is being served on the Attorney General's office in the public records lawsuit. Kielsingard questioned whether any responsive pleadings have been filed. Cintron stated that none have been filed thus far. Chairman Lee questioned whether the ACLU has joined in the case. Cintron responded that he has not been informed that they have joined the lawsuit nor has he been served.

### **Executive Director's Report**

Willett informed the board that she had participated in the KWPD Ride Along Program on Saturday, January 6, 2007. Willett explained that while riding with one of the officers, a complaint was filed with IA against that officer and she was identified as a witness to that complaint.

### **Chairman's Report**

Chairman Lee informed the board that there are four cases to be heard at the next board meeting on January 22, 2007 and two cases to be heard on the February 12, 2007 board meeting. Chairman Lee announced that the February 26, 2007 board meeting would be canceled due the Executive Director's scheduled training seminar in Ft. Lauderdale, FL.

### **Public Input**

Dwayne Norris

### **Media and Press**

None

### **Adjournment**

There being no further business, Chairman Lee adjourned the meeting at 7:01 p.m.

Respectfully submitted by:

  
Amanda Willett, Executive Director