

Oversight Committee Meeting Minutes from December 22nd, 2020:

Committee Members Present: P. Bradley, M. Deffet, D. Demmings, M. Ecton, T. Griffith, Chair M. Joseph, M. King, C. Maragaño, Chair B. McClain, A. Pfeiffer, R. Robinson, P. Saunders, T. Wahlrab, R. Walker, J. White

Staff Present: A. Blankenship, J. Davis, M. Schaller, W. Smith, L. VanderKaay

Chair McClain brought the meeting to order at 5:06pm. He then passed the floor to J. Davis to present on the current Citizens Appeals Board (CAB) process.

J. Davis gave the following presentation (see attached). Topics included presenting the general structure of CAB, its current board members, the process on how to appeal, the current information given out about the process (i.e. brochure), the hearing appeals process, as well as walking through the pros and cons of the current process. J. Davis highlighted that there have not been a lot of appeals in motion-two in the last year, and a total of five since 2018.

A. Pfeiffer, who currently serves on CAB, acknowledged and appreciated J. Davis' comments and presentation, and also added the current struggle with legal advising. In the charter, there is a mechanism that CAB has to have a legal advisor present, especially to go and help the citizens serving on the board understand CAB files, however an individual like that has not been in existence. Oftentimes another legal advisor can be called in their place, but a permanent advisor is needed. She highlighted the importance of a legal advisor to ensure that any sharing of information doesn't get skipped, because that can really slow down the process.

Chair Joseph asked J. Davis whether in a new system if someone with that detailed experience would be needed, as well as any of his additional thoughts on the matter.

J. Davis said that the intake process will make some of that process similar, and that P. Bradley can speak to that as well, but he would look into ways that other similar committees in the city handle legal representation and how they address this.

Chair Joseph said that P. Saunders mentioned other models in the current information sharing system that could be used.

P. Saunders shared that public records requests go through his division, and specifically Mike in his office for admin requests is the current policy. He suggested that it might be helpful for the recommendations that when there is an appeal that a public records request is automatically triggered so it can be sent over to CAB and other parties.

Chair Joseph asked if that would be a standard list of materials that CAB might request. P. Saunders said that would be the case.

C. Maragaño asked for the statistics around appeals.

A. Pfeiffer said that there have been five appeals since 2018. P. Bradley asked that out of the five, how many have been sustained?

A. Pfeiffer said that one was sustained, one complaint was withdrawn, one that shouldn't have been sent to CAB and was meant to be sent to a different place in the court system, and there are two current cases.

C. Maragaño asked whether those two cases are pending and their current timelines. A. Pfeiffer indicated that they are both recent.

Chair Joseph said that this might be related to the fact that we have a different purview than other cities, whose citizens' boards might have a broader scope, and that in comparison ours is much narrower.

T. Griffith asked about the deadline for 30 days to appeal-when specifically does it start? The date on the letter or the date that it is received? J. Davis said that he believed it was the date received.

T. Griffith said that mail gets forwarded in weird ways and has often been delayed over the last year, so we might need to discuss the timeline further as to if that's actually a good time frame or not.

J. Davis answered Chair McClain's question, regarding the flexibility for the timeline. For example, if the form was received a day late, we would still accept the appeal. He said that the timeline is on the more progressive side, and so far he hasn't seen any complaint sent more than 30 days out.

Chair Joseph said that is why it is important for an intake person to follow-up with citizens accordingly.

A. Blankenship said that the deadline begins when PSB issues their finding, not when the letter is received.

T. Griffith said that she found that concerning, especially if someone is a non-native speaker.

Chair Joseph said that could be another duty of the intake person to follow-up about.

T. Griffith said that there is not currently language access.

J. White had a question regarding how much access citizens are currently getting to assistance. He suggested a survey go out with complaint forms in the future to get more information about how much of the process is understood and how much help people need and/or have access to now.

J. Davis mentioned the risk of such a survey being that we want to keep people's information confidential, as opposed to out and not protected.

Chair Joseph said that was a deep concern, and could mean an increased lack of trust if such information about complainants was released, and that if we improve other elements, then we can look if there's something else we need to put in.

J. Davis said if members of the committee know of someone willing to share their experiences with the complaint process, please let him know.

M. Schaller asked a question about complainants getting information regarding legal aid. J. Davis said that HRC always tries to refer someone if they can't get assistance.

T. Wahlrab asked whether this informs next steps, or if we are passing recommendations now. Chair Joseph confirmed that this was informing next steps.

T. Wahlrab asked whether this means that it is implied that the person hasn't been heard in the process so far?

Chair Joseph indicated that this is not true, but just continuing to emphasize that point. He then thanked J. Davis and A. Pfeiffer for sharing their knowledge, and moved on to presenting about cities.

A. Blankenship shared the Cincinnati Process, and also looked into Madison, WI. She highlighted that a general concern about looking at other cities' examples is that Sunshine laws are relevant here, as other appeals boards across the country don't have as strong a set of Sunshine laws and that impacts the Appeals Boards.

P. Bradley said that he was glad that Wisconsin was brought up, and that what the five board/committees combined (the cross-committee group) are doing is kind of what CAB is or could be, and based on what we're developing, we are kind of creating a committee board, but if other committees are doing similar things, then we should think broader.

A. Pfeiffer highlighted that policy review and recommendations as a duty of CAB are listed in the ordinance.

Chair Joseph said that it has come up again because the question is whether it has been used or not thus far, and whether there's a question of CAB not feeling support to use that mechanism.

A. Pfeiffer said that is a great question, and she is not sure how to answer it, because she believes it is a number of factors. She underlined that it is hard to do if someone else has another job, like the members of CAB who are volunteers.

J. Davis said that while it is not in his official responsibilities, however he's always happy to assist with CAB, and he is currently helping with summaries and the process as a whole for CAB, but hasn't helped with policy at this point.

Chair Joseph said that he wants to bring that to his colleagues in the Commission as a concern, as he believed that someone should be paying attention who works at the City officially and look at how things are running.

T. Wahlrab messaged that soon there will likely be an extension of the FOP contract, and he was looking for more insight into the process.

M. Ecton said that in terms of the FOP contract, how do we know that they won't be affected by such changes?

A. Blankenship said that out of all of this working group committees' recommendations, only one was a deep dive to recommendation vs. contract, and the City's legal department is confident that we are in the clear, specifically regarding keeping discipline recommendations.

Chair Joseph indicated that he was hoping to know soon, but someone could let committee members know when it happens. M. Ecton thanked him for that.

J. Davis then shared the process in Grand Rapids, Michigan. He mentioned that there were a lot of similar processes to Dayton's CAB, but some differences included that their Citizen Board has no subpoena power, importantly do have access to the final disposition in the case, and can also disagree with the Independent Auditor and the board's findings to go to the City Manager. He outlined that this recently came into play in regards to a case w/ ICE and the question of a possible policy violation in Grand Rapids.

P. Bradley had a question about the final disposition. J. Davis clarified that this was referring to the Independent Auditor's final conclusion.

Chair Joseph then shared what he had learned about Muskegon, Michigan. He noted that the board's make up included officers from other jurisdictions, as well as a 10-day time frame to make a recommendation directly. He also underlined that we have choices about where we want a similar recommendation to go in the system. He then opened to floor to general questions.

Chair Joseph then said he would follow-up with the committee about the questions regarding the FOP contract as well as policy review update at the next meeting. He thanked everyone for their time so close to the Holidays, and wished everyone a safe and Merry Christmas.

The meeting was adjourned at 6:16pm.