

Oversight Committee Meeting Minutes from January 27th, 2021:

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

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

Chair Joseph brought the meeting to order at 5:05pm. He said he appreciated the flexibility of the committee members as we were unable to use our previously scheduled Tuesday evening time for 2021, and were meeting Wednesday evenings moving forward, including at the end of February. He then passed it over to Chair McClain to go through the potential edits to the recommendations from December.

Chair Joseph then walked through two points. First, the executive team did not have a chance to meet two weeks ago, so he apologized for the lateness of the document, as it was just edited by the executive team this week. He reiterated that there is zero pressure to make any changes to the original recommendations. He said that he asked for a two week extension from the City team to have a final decision on the recommendations because we heard from the city the need to edit some of the wording to maximize the impact of recommendations. He then passed the floor to A. Blankenship, especially since a few folks that weren't at the last meeting.

She then went over the slide regarding the discussion points from the City about the IAA position. She outlined that this was based on discussions with the Dayton Police Department (DPD) and City Manager's Office (CMO) to make sure we are meeting the intent of the committee and designing the Independent Accountability Auditor (IAA) role so that it works within the overall system. The points included having the position possibly be fulfilled by contract as opposed to being a City employee, the routing of complaints by PSB and supervisors, but with the IAA auditing throughout the process, and the general concerns about the IAA potentially duplicating the existing investigative process.

T. Wahlrab asked about the current Auditor in the City and whether it is a financial position only.

A. Blankenship said that this is true, but one could argue that she also looks over the process on the whole.

T. Wahlrab acknowledged that this had been brought up at a previous meeting.

A. Blankenship said that based on this concern from the last meeting when this was brought up that she looked into the terminology of the term and it has become more commonly used by cities to specify oversight, especially around Police and Police department actions.

P. Saunders said that the Auditor at the City currently, Megan, does overlook financials, but her work is not exclusively to audit. Her work does impact policy, procedures, best practices and efficacy. He said he thought it to be a great model and pretty exhaustive, but the principles are exactly the same.

A. Blankenship said that is a really valid reason why we might not need it to be a City employee position.

Chair Joseph said that they also don't want the position to be empty for longer than it has to be, and having this be a contract position lessens the chances of it being left empty.

A. Blankenship went on about complaint routing and walked through the concern about the Auditor routing the complaints and how it might slow down the process.

Chair Joseph apologized to M. Ecton for attempting to bring this concern to his attention and not acting on it.

A. Blankenship said that this is a further example of the concerns about the investigation functions mixing in with the audit processes. She underlined the difficulty it might bring to auditing if there's also investigative functions of the role.

Chair Joseph thanked Amy and passed the floor to Chair McClain.

Chair McClain said that these edits were based on feedback from the city and the last committee meeting, and walked through the document on the whole. He read the highlighted position throughout the document, continuing that the auditor can choose their cases and parts of the process. He also mentioned reports to the City Commission.

Chair Joseph said that one thing they might not want to change is to dive into more specifics, as the broader group asked committees not to get too much into specifics, and that he was confident in the overall process.

M. Deffet asked for clarification whether somewhere in the recommendations that the Auditor has to make a report every six months to the Commission so that the Auditor has someone to report to, and otherwise he felt comfortable striking that section.

Chair McClain appreciated that and the ability for the Auditor to flag concerns about the process later in the document.

C. Maragaño appreciated both points.

T. Wahlrab asked whether hiring the individual would negate the use of having it be a contract position.

Chair McClain said that it just seems to be logistics, and A. Blankenship agreed.

R. Robinson said that whenever they do hire the individual that they should look closely at the contractual language, and had some initial suggestions. Chair McClain said that there are no worries with that.

P. Bradley heard that was a part of the conversation and understands some flexibility in the processing all of the work together, but that he is concerned with taking out the City Commission oversight piece in that if the Auditor is not reporting to someone, they have more or less lost direction or power, and that it could definitely evolve to be a more serious concern later.

Chair Joseph said that there is a way to tweak the language to ensure that won't happen.

P. Bradley said that maybe there should be explicit language about the City Commission overseeing the location of the office for the Auditor as a whole or something similar. A. Blankenship agreed.

Chair McClain said that this could also be accomplished by having language about the city determining how the reporting happens.

P. Bradley said that the term reporting allows transparency and accountability, and also about a broader housing and structure for the office.

Chair Joseph said that all active players: the City Commission, members, etc., will all be active in the process.

M. Deffet wanted a note to be included that the report will be made public. Chair Joseph said that it will be public, but to make sure to take out the PII (personal identifying information).

A. Pfeiffer said that reporting is one thing, but we are really talking about accountability and that she thought it is important enough to leave it as written.

Chair McClain said that he wanted to make sure that there is a clear line or chain of command.

T. Wahrab asked whether the report would be different depending on how the Auditor reports to.

Chair Joseph said that HRC is also a Commission agency, so they also report to the Commission, so that would be the same.

T. Wahrab said that the difference is that they can go to the Commission directly without an Executive Director present.

Chair Joseph said that is not necessarily true, but that we can put that in.

T. Wahlrab said that we are maybe splitting hairs, but maybe we should put into the final language about who the Auditor reports to.

Chair Joseph said that they will report to someone, and will have the power to automatically raise an issue no matter who they report to.

R. Robinson asked whether this document would serve as the contract for the Auditor. Chair Joseph said that it would look different. R. Robinson said that the document will have to spell out who they report to and what the requirements are.

T. Wahlrab said that this recommendation does automatically inform the contract.

R. Robinson said that some of this needs to be spelled out not to become the outline for the contract for the position.

Chair Joseph noted that R. Robinson is an expert in contracts from his work related to Wright Patterson Air Force base, so we should note to engage him in this process, as he's been a part of similar processes before.

P. Bradley said that if he is skeptically looking at this process, does a contract position go out to bid? Are there ways we can specify Commission feedback or outline what kind of position it is?

Chair Joseph said that is one step further than we are now. He said that if P. Bradley or C. Maragaño are a part of the larger cross-committee working group, that is the perfect place to be mindful of such concerns.

P. Bradley asked for a note to be made to engage with members of the Commission if they aren't a part of the process as to the ultimate hiring of the position.

T. Wahlrab said that he also thinks it is important for citizens to be present for the general hiring process.

R. Robinson said that when you are going out for a contract position, you are contracting for a specific service-a report, a product, etc. and that should be kept in mind as the difference instead of a City employee.

Chair Joseph asked if there is a way to outline that just one person accomplishes the role.

R. Robinson said that perhaps, but it depends because you are asking for a service, and the company is going to fulfill that service no matter what or who happens to any individual.

Chair McClain said that there is a way to narrow down the scope, but to have some space in the process for Commission feedback, if that's what P. Bradley had in mind. P. Bradley said that was what he was looking for.

Chair McClain said that, like in legal representation, it is at the client's discretion to fulfill that role through the one individual or otherwise. He said that he would want that to be hashed out in the process and contract document. He then went to read over the changes again and began voting.

Changes to Recommendation 1 passed, T. Wahlrab and A. Pfeffier voted against.

Chair McClain walked through the changes to Recommendation 4.

P. Saunders said that the recommendation is fine, but as they are submitted they should probably be struck. Complaints are routed by policy, and they can be moved later. Second, the Auditor will not be able to route all complaints and oversee all of them, and that we would be setting them up to fail, so there will be a lack of credibility to the position.

Chair Joseph asked about changing can to will in the document.

M. Deffet said that also PSB does not route complaints, so we should change that.

P. Bradley said that the semantics around the decisions are less relevant than looking more largely at the decisions, and decisions and the process.

Chair Joseph said that he would not put process, because that implies a higher standard and we should wait farther in the process to keep that decision. P. Saunders said that it should reflect a different term. P. Saunders had a specific suggestion.

R. Robinson said that he might be the oddball out, but doesn't understand the sentence as the whole.

Chair Joseph explained the process and how police will make the decisions and that ultimately the auditor has the ability to look over both the process and the ultimate findings. R. Robinson indicated that he was satisfied with that answer.

T. Wahlrab requested that we change PSB to police.

P. Saunders said that complaints come from a lot of points of contact, but we've made a recommendation to streamline the complaint process so that they all end up in the same place and that should make a difference overall.

There were concerns about the wording of police vs. DPD, and they were changed throughout the course of the document. The committee then voted on the changes.

The changes to recommendation 4 passed, M. Ecton and R. Robinson both voted no.

Changes to Recommendation 5 passed unanimously.

The floor then moved to Recommendation 6.

A. Pfeiffer asked for clarification of if the concerns of the Auditor aren't answered, what does that mean?

Chair Joseph said that it means that the Auditor can start a conversation if they don't feel like there is a full enough response, and can immediately go to their supervisor.

M. Deffet said that he thought it meant elevating concerns to the PSB's supervisors, not the IAA's supervisor. M. Ecton read in the other way.

M. Deffet said that all of the language generally sounded weak around this recommendation.

R. Robinson said that he was going to say something similar and thinks that point should be clarified. Chair McClain made those edits. R. Robinson suggested that they could say "senior leadership" instead.

T. Griffith said that something like the language was mudding the process, so she appreciated the good suggestions.

Chair McClain used the language "elevate their concerns" and that he was wary of what happens if that language is there to introduce some finality, as that should be saved for the end of the process.

Changes to Recommendation 6 passed, R. Robinson voted no.

The floor then moved to Recommendation 7.

Chair Joseph said that First, there were some concerns from the law department that if the auditor was writing a report, it might be untenable legally to have two different decisions from the department and from the Auditor. Secondly, it is more of an investigation process.

In regards to all of the materials regarding complaints and investigations, P. Saunders said that he recommended that the IAA can request them at will and that we should make it clear that it should be made available to them, as opposed to overwhelming them with every report and investigation. He went on to say that the problem is if we move everything to be available, that we can't put onus on the Auditor to catch every complaint, and we would be setting them up for failure.

R. Robinson had a small, word-based edit. T. Wahlrab highlighted again changing Police to DPD.

P. Bradley said he understands the original intent of this recommendation to be creating oversight for the process.

Chair Joseph said that this is still the case, but the goal is for the Auditor to jump in sooner.

P. Bradley said that if you are catching things as they go, would it be any different than what the process currently outlines. He said that how he understood the intent was to have a non-member of the police who audits the process and checks it off as a whole. He was worried that this change would be seen as watering it down.

Chair McClain said that he thinks it strengthens it, and that the Auditor can make a more complete investigation at the end as opposed to duplicating energy or work.

M. Deffet said that means that we don't want to talk about completion, but rather pre-completion intervention.

Chair Joseph said that this would be pushing the role to be earlier and watching things as they go through. This means that there will be a full process, as opposed to a report out at the end if there is a problem.

L. VanderKaay said that we should have the Auditor see how this process goes, and allow them to give feedback on whether it is working or not later on.

A. Blankenship said that this seems right, especially for the bigger processes.

Changes to Recommendation 7 passed, A. Pfeiffer and M. Ecton voted no.

Changes to Recommendation 8 passed unanimously.

Chair McClain thanked everyone for their votes, and Chair Joseph said he would resubmit to the Commission with these changes, and thanked everyone for using their votes to preempt any concerns.

The decision then moved to the CAB, and M. Schaller did a presentation on the Citizen's Board in Indianapolis. One topic related to this was training that the board in Indianapolis undertook to be a part of the board.

M. Ecton said that the challenge with training is that there had been previous training required of CAB that didn't have much attendance, but agreed that that sort of training is important.

T. Griffith suggested some sort of training with the Mediation Center and other individuals could be a good addition.

M. Deffet said that he was concerned that the training seemed one sided and entirely focused on the Police side of things.

T. Griffith also said that the best skills for a CAB member are listening skills, and curiosity about the process, whether or not participants engage in a training.

M. Deffet asked about the idea as to whether citizens have an advocate or not with them, either through the appeals process or generally.

M. Schaller said that a similar idea had come up in the Community Engagement group, and that she would check in on its status.

Chair McClain said one big concern is with citizens not understanding the case or what they sign for on different documents, and he had come across that many times. He reminded the committee to continue looking over the current CAB process, and researching other municipalities and add their ideas. He then thanked everyone for the great discussion, and adjourned the meeting at 6:37pm.