

To: The Members of the Community Oversight Board

From: COB Bylaws Committee
Matt Sweeney /s/ *MJS*
Andres Martinez

Re: Draft Bylaws

Date: February 22, 2019

The Bylaws Committee met and has drafted the attached bylaws for the COB's consideration. (**Exhibit A**). Metro attorney Alex Dickerson also met with the committee. Matt Sweeney will be out of town and unable to attend our next meeting, but Andres Martinez and Alex Dickerson will attend and to answer questions about the draft we have submitted.

I. What the draft bylaws are and how they were prepared

Bylaws are intended to provide a board with its basis operational structure; frequently, a Board will also have rule or policies to guide its day to day operations. The general structure and basic terms of the COB bylaws are based upon the bylaws of the Metro Human Relations Commission, which is attached as **Exhibit B**. We also incorporated provisions from the COB Charter provision (which is available on the COB website). We considered and include parts of the earlier proposed ordinance to create a Metro COB (other parts will be the basis for COB operational rules as briefly discussed below), which also is attached as **Exhibit C**. We also reviewed, considered and included certain provisions/language from some the following bylaws of other oversight/review boards:.

Denver

<https://www.denvergov.org/content/denvergov/en/citizen-oversight-board/governance/cob-bylaws.html>

Greenville, SC

<https://www.greenvillesc.gov/DocumentCenter/View/5653/Bylaws-Public-Safety-Citizens-Review-Board?bidId=>

Fairfax, VA

<https://www.fairfaxcounty.gov/policecivilianreviewpanel/sites/policecivilianreviewpanel/files/assets/documents/pdf/police-civilian-review-panel-bylaws-2018.pdf>

Albuquerque, NM

<https://www.cabq.gov/cpoa/documents/civilian-police-oversight-agency-policy-procedures-2018.pdf>

San Diego CA

4835-2040-9480

2616900-010117

<https://www.sandiego.gov/sites/default/files/legacy/citizensreviewboard/pdf/crbbylaws.pdf>

We also reviewed and incorporated by reference the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics, Which is attached as **Exhibit D**.

II. What the Board needs to do

In your review of this draft, we draw your particular attention to several provisions:

A. Those where there are blanks

There are several blanks throughout the draft, either because we did not have the information or because the board will need to make some choices. These are:

Article IV, Section 5. A date or time period by which board members will complete orientation training. To set this date, will probably need to decide what orientation will include, as we assume that training in general will be on going. Complete within 3 months?

Article V. Need to state where the board offices will be.

Article VII, Section 2. The Board may want to establish standing committees in addition to the Executive Committee.

Article VII, Section 4. if we want a nominating committee for officers, we will need to decide when it should do its work? That probably will depend on whether we want to keep the current 6 month term of office, or make terms of office for the next group or some group thereafter.

Article XII. Reports. Need to set a release by date for COB annual report.

B. Policy Decisions

The following provisions concern policy judgments about how we want to do our work, which deserve perhaps the closest review:

Article II. Is the purpose of the board properly stated?

Article III. Are the powers of the board properly summarized? We cannot create powers we do not have, but should make sure that they are clearly summarized. When we adopt rules for the COB there will be much more detail regarding our policies, procedures and protocols.

Article III. Section 1, D. A single member committee or task force would not have to hold public meetings.

Article IV. Section 2. Based on the Charter provision, we understand that the COB is to determine how our terms of office will be staggered among us. This proposal gives the most

weight to the community nominated members, but gives the other two groups one 3 year member each. We can allocate these positions how we see fit.

Article IV. Section 3. If a position comes open during a term, the Council is to make a selection in a way that keeps the relationship of the groups on the Board intact. (However, this may be a decision for the Council depending on how the Charter provision is read as to the power of the Board to determine how staggered terms should work).

Article VI. Section 4. Do we want future officers to serve 6 month terms, or once we get organized and know each other, should terms be a year? This provision includes a two year service cap as an officer. Do we want officer terms limits? (There is not term limit for service on the Board in the Charter provision).

Article VII. Section 7, C. Allows the Board to create task forces which may include people other than Board members.

Article VIII Personnel. Article provides that Board shall hire and have authority to terminate 3 employees: Executive Director, Assistant Executive Director and Legal Advisor, as the chief employees of the Board, which the Board is likely to deal with and rely upon on a regular basis. Only the Executive Director is non-civil service. All other employees could be hired by and terminated by the Executive Director with the advice and written consent of the Board Chair. We might want to allocate these responsibilities differently. These three are key employees and the Legal Officer will be advising the board as well as the staff. The Executive Director may view that board authority as an infringement. If the Board wants this authority, it will need to confirm its lawfulness. Metro attorney Alex Dickerson is going to check into this.

Article XI. Confidential and Protected Information. If the Board receives confidential information it needs a way to assure it remains confidential and allows for its consideration by the Board. Alex Dickerson is going to review this and provide advice on what may be doable.

Article X. Public Statement. Identifies who has authority to speak on behalf of the board.

Article XI. Community Public Comment. Commits the COB to regularly opening the floor to public comment at its meeting on matters relevant to the Board's work, subject to certain guidelines. This article also commits the Board to establishing a method by which in advance of a public comment session a non-English fluent community member may request a translator to assist in presentation. The Board would then make one available if practicable.

Article XIV. Ethics. Adopts the NACOLE Code of Ethics.

C. Operational Issues

Article XVI. Amendments. Permits amendment to the bylaws by a majority vote of the Board. The bylaws of many other organizations require a higher vote, typically 2/3 (which for

the COB would be 8 members). Since we are a new entity and may want to revise our procedures as we feel our way, it seemed that a 2/3 standard was too restrictive.

Article XVIII. Interpretation. The authority to resolve conflicts or ambiguity with the bylaws is vested in the board by majority vote. It could be a power vested in the Chair, Executive Committee or legal advisor.

III. Next Steps

The Board can finalize and accept the draft bylaws, continue the discussion to another meeting or return them to the Bylaw Committee for more work with specific requests for changes or general requests to address other matters or any of these matters further.

After bylaws are adopted, the Board will need to adopt a separate set of rules for the investigative and policy work of the commission and staff. The Bylaws committee could undertake that drafting, but any committee assigned the responsibility should be larger with other relevant experience and an understanding of how OPA and any related MNP investigations are undertaken and documented. Additionally, we probably would want input from our Executive Director and a consultant, like NACOLE, before we finalize the rules, to best assure they are practical and workable. We have begun to gather information which should be helpful in that process and would be glad to pass it on to another committee if the Board decides that would be best.