

City of Portland
Police Citizen Review Subcommittee

AGENDA
January 11, 2023
6:00 PM

1. Zoom information

- a. On Wednesday, January 11, 2023 at 6:00 p.m., the Police Citizen Review Subcommittee will conduct a virtual meeting. This meeting will take place remotely using Zoom.

This meeting will be held remotely pursuant to the Remote Meeting Policy adopted by the Police Citizen Review Subcommittee and as authorized under 1 M.R.S. 403-B because of the existence of an emergency or urgent issue that requires the committee to meet by remote methods. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be available following the meeting.

For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/84327366807?pwd=NIBXaElHQVp3Nys3c2hLbXlKSXZvZz09>
Passcode: 199176

Or One tap mobile :

US: +13126266799,,84327366807# or +16469313860,,84327366807#

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2. Call to Order

3. Approval of November 9, 2022 minutes
Attachment

4. Executive session pursuant to 1 M.R.S. Sec. 405(6)(F) to discuss IA2022-10 and IA2022-13.

5. Public Comment

6. The Subcommittee may go into Executive Session pursuant to 1 M.R.S. 405(6)(E) to consult with its attorney regarding its legal rights and duties under the City's Police Citizen Review Subcommittee Ordinance and the Charter modification included in Ballot Question 7.

Attachment

7. Public Comment

8. Adjourn

DRAFT
MEETING MINUTES

POLICE CITIZEN REVIEW SUBCOMMITTEE

November 9, 2022

Meeting Held Remotely Via Zoom

Members present: Emily West, Chair, Reggie Parson, Vice Chair; Anne Hardcastle; Kay Kerina; Gino Desruisseaux; Tim Smith; Reverend Lewis (joined at 6:02, after the meeting minutes were approved.)

Members absent: none

Staff present: Jen Thompson, Lt. Titcomb, and Major Martin

Call to order.

Motion to adopt minutes of October 12, 2022 meeting. Second. Roll call votes 6-0.

Emily acknowledged to the group that changes to the structure of the PCRS were approved by the voters. Jen added that Corporation Counsel is going to weigh in formally on the provision next week and told the group that it doesn't take effect until July 1, 2023, at which time, a new ordinance will be drafted. The subcommittee will continue working as it has until the new ordinance takes effect. Reverend Parson opined about whether the present members automatically carry over into the new group appointed by City Council. Jen stated that the status quo will carry forward into the summer of 2023.

No public comment offered.

Executive session pursuant to 1 M.R.S. Sec. 405(6)(F) to discuss IA2022-005 and IA2022-009.

Motion to enter into Executive Session; Second; Roll call votes 7-0.

Out of Executive Session. Kay recused herself from review of IA 2022-005.

Motion to find that IA 2022-005 was timely; second; roll call vote 6-0.

Motion to find that IA2022-005 was thorough; second; roll call vote 6-0.

Motion to find that IA 2022-005 was fair; second; roll call vote 6-0.

Motion to find that IA 2022-005 was objective; second; roll call vote 6-0.

Motion that the IA2022-09 categorization of this complaint was appropriate and consistent with SOP 90; Second; Roll call votes 7-0.

No public comment offered.

The group decided to cancel the December meeting. Jen told the group that there will be a representative from Corporation Counsel at the January meeting to answer all of their questions and offer guidance regarding the new ordinance and its effects on the incumbents. There is one Category U case to review in January.

Motion to adjourn the meeting; Second; Roll call votes 7-0.

Members thanked Jen for her work with the group.

BALLOT QUESTION # 7—Civilian Police Review Board

Shall the Municipality Approve the Charter Modifications Recommended by the Charter Commission Relating to the Civilian Police Review Board as Summarized Below?

1. Proposed Summary:

This Charter modification replaces the current Police Citizens Review Subcommittee, established by current city ordinance, with a civilian police review board consisting of nine or more members, with powers, duties, funding and staffing as provided in the proposed Charter language and subject to city council's enactment of procedural ordinance provisions.

The civilian police review board shall:

- Be appointed by the city council;
- Receive complaints directly from civilians for referral to Portland Police Department Police Command and/or Internal Affairs for investigation;
- Review the Department's Command and Internal Affairs investigation reports for due process issues, including issues of fairness, thoroughness and objectivity, and may issue its own reports on those investigation reports; and
- Be funded, as needed by the city council, to provide for part-time or full-time staff, including a community liaison and a police liaison.

Appeals of the civilian police review board reports may be taken to the city council.

2. Charter Language for Question

Note: This contains only the provisions related to the Commission proposal in **Question # 7** and only those sections which will be changed if this question is adopted. Deletions are shown by ~~strikeouts~~; new language is underlined.

1. Amend the Table of Contents as follows;

Art. IX. Civilian Police Review Board, §§ 1 – 3

2. Amend the current CHARTER by adding the following new ARTICLE IX. CIVILIAN POLICE REVIEW BOARD, as follows:

Article IX: CIVILIAN POLICE REVIEW BOARD

Section 1. Purposes, composition, term, appointment, first board, qualifications, vacancies, removal, compensation.

- (a) Purposes.** For the purposes of increasing public trust and confidence in the Portland Police Department, there shall be a civilian police review board.

- (b) Composition, term, appointment, first board.** The civilian police review board shall be composed of nine (9) or more members who shall hold office, except as hereinafter provided, for a term of three (3) years unless appointed to fill a vacancy, and until their successors are appointed and qualified, but in no case longer than 120 days after expiration of their term. A minimum of four (4) voting members shall be appointed by the city council, one (1) voting member shall be appointed by the mayor and three (3) non-voting members shall be appointed by the city council. A majority of the total number of voting members appointed shall constitute a quorum of the board and the board shall act by a majority of voting members present and voting.

For the first board appointed following its creation, the city council and mayor shall first select from the current members of the police citizen review subcommittee, currently established by City ordinance, which subcommittee shall be supplanted by the board, in making appointments to the board. On the first board, two voting members shall serve for a one (1) year term, two voting members shall serve for a two (2) year term, and the voting member appointed by the mayor shall serve for a three (3) year term; and one non-voting member shall serve for a one (1) year term, one non-voting member shall serve for a two (2) year term, and one non-voting member shall serve for a three (3) year term. Thereafter, all members shall serve for a term of three (3) years. No person shall be appointed to, nor serve, more than three (3) consecutive full terms or nine (9) consecutive years, whichever is greater, on the board. Following appointment of the first board, the city council shall exercise its power of appointment only after the city clerk has published a notice announcing the availability of board positions, describing the responsibilities thereof and soliciting applications by qualified persons, in a newspaper of general circulation at least 15 days before the city council acts to appoint to the board.

- (c) Qualifications.** All candidates for the civilian police review board must be at least 18 years of age and must be residents of the City for a period of at least three (3) months prior to the date on or before which the board member is to be seated.
- (d) Vacancies and Removal.** The City Council shall provide by ordinance procedures for vacancies and removal of members.
- (e) Training.** Prior to assuming their duties hereunder, civilian police review board members shall attend training provided by city staff as to the board's duties and responsibilities, applicable state and local law, ordinances and rules and regulations, accepted police practices and the police department's internal affairs investigation process.
- (f) Confidentiality.** Each member of the civilian police review board is obligated to maintain the confidentiality of all information and documents either provided to or reviewed by them, in accordance with state law. Failure to maintain such confidentiality will constitute "cause" for removal from the board under (d) above. All reports prepared by the board and all requests received by the board for disclosure of any information or documents in the custody of the board or its members shall be referred to the corporation counsel for review prior to release.

- (g) **Transition.** The city council shall promptly consider and enact an ordinance to implement this Article, which ordinance upon its effective date also shall repeal the existing Police Citizen Review Committee ordinance provisions in Chapter 2, Art. IV, Div. 4 of the Code of Ordinances, City of Portland, Maine.

Section 2. Powers and duties.

- (a) **Complaints.** The civilian police review board shall receive all complaints brought by civilians regarding the Portland police department and shall refer such complaints to the Portland police internal affairs department. Members of the police department may bring complaints to the board, to internal affairs, or to command; the board shall refer any such complaints it receives to internal affairs. Portland police department command shall review internal affairs draft findings on complaints and shall submit its report on the conclusions of any investigation on complaints to the board for consideration no more than fourteen (14) days after the findings become final and after any final disciplinary action has been taken and all appeals exhausted or settled or the case has been closed with no disciplinary action. Neither police officers nor their representatives may file complaints regarding disciplinary actions or personnel matters under this subsection.
- (b) **Review, reports.** The board shall review all final investigation reports submitted by internal affairs and/or command staff under Section 2. (a) above for due process issues, including but not limited to, issues of fairness, thoroughness, objectivity, and timeliness. Although it shall have access to individual internal affairs reports in order to review investigative methods and procedures, all reports of the board issued to address complaints filed under Section 2. (a) above shall be done in such a manner that particular complainants, witnesses and officers are not personally identifiable. Reports of the board shall be made available to the public to the extent consistent with the State Freedom of Access Act, 1 M.R.S.A. Sec. 401 *et seq.*
- (c) **Appeals.** The city council shall by ordinance adopt an appeal process consistent with federal, state, and local law for persons aggrieved by a report issued by the civilian police review board on complaints filed with the board under Section 2. (a) above to appeal that board report to the city council or such other body as the city council may designate or create for a hearing, in executive session where required, and for the issuance of an advisory opinion which shall not be legally binding on the city, the police department, police officers, or individuals, and which hearing and advisory opinion shall not include or address any disciplinary proceedings. Neither police officers nor their representatives may file appeals regarding disciplinary actions or personnel matters under this subsection.
- (d) **Policy.** The civilian police review board shall be able to make policy recommendations to the mayor, the city council, and the chief of police.
- (e) **Annual report, communications, additional duties.** The civilian police review board shall hold a public hearing at least annually to receive comments upon the community complaint process and to engage City residents as to the board's purposes and goals, and

shall prepare and present to the mayor, city council, and chief of police an annual report, including but not be limited to, policy and funding recommendations, and the number of complaints submitted to the board and the number of complaints resolved during the previous year. Any recommendations made by the board regarding the police department shall be based on policy evaluations, may be assigned by the city council and mayor to staff for research, and may be enacted or implemented. The board also may, in its discretion, address the city council on an as-needed basis. The city council and mayor may add to the board’s duties by ordinance at any time.

- (f) **Board Officers & Procedural Rules.** The civilian police board shall annually elect one of its members to serve as chair, and shall annually elect one of its members to serve as vice-chair, to serve in the absence of the chair. The City Council shall by ordinance establish rules of procedure and board member roles. The board may recommend such rules to the City Council.

Section 3. Funding, staff, resources.

- (a) **Funding, staff.** The civilian police review board shall be funded as needed by the city council through the annual budget. Such funding shall include professional staff, including but not limited to a “Community Liaison” and a “Police Liaison” familiar with Portland police department standard operating procedures. The city council shall decide whether the community liaison and police liaison positions are part-time or full-time and/or whether the duties of these positions may be assigned to existing employees. The community liaison shall serve at the direction of the board and shall ensure the public is aware of the methods for filing complaints, and shall assist the board with carrying out its duties, powers and functions, conducting outreach and with other duties as the board may assign. The board may request additional funding from the city council at any time. The police liaison may be the same person/position as the “technical advisor” described in Section 3(b) below.
- (b) **Resources.** The city shall make available to the board the services of a technical advisor, as needed by the board. The technical advisor may be used for the purposes of training; briefing the board on accepted police practices, applicable law and issues relevant to the discharge of the citizen review function; and educating the board on aspects of the internal investigation process. The technical advisor shall be retained by the city manager after consultation with the chief of police, representatives of the police unions and the chair of the board. Any person who presently maintains any business or professional affiliation with the police department shall be disqualified from serving as technical advisor. The city shall further make available all internal affairs investigation reports and police documents relevant to such investigations which are necessary for the board to conduct its duties hereunder. In no case shall the board have access to police officers’ personnel records except to the extent that they are part of an internal affairs investigation report or are considered a public document under the Maine Freedom of Access Act.

- (c) **Coordination.** The board shall work in conjunction with the City’s communications department, internal affairs, and any other city departments or offices to effectuate all powers and duties granted to it in this charter and any additional duties assigned to it by the city council or mayor.