

MINUTES
CITIZEN REVIEW BOARD
OLD CITY HALL, 510 GREENE STREET
MONDAY, November 26, 2012

A regular meeting of the City of Key West Citizen Review Board was held in the main room of the Commission Chambers, Old City Hall, on Monday, November 26, 2012.

Vice Chairman Larry Beaver called the meeting to order at 6:02 p.m.

Answering roll call were Board members Virginia Altobello, Joe Pais, Tom Milone, Hayward Magby, Michael Behrend, and Vice Chair Larry Beaver. Also present were Executive Director Susan Srch, Counsel Robert Cintron, and KWPD Sgt. Joe Tripp.

Chairman Kevin Collins was absent.

The pledge of allegiance to the flag of the United States of America was given by all present.

CHANGES TO THE AGENDA:

There were no changes to the agenda and it was approved.

MINUTES – October 22, 2012

Mr. Pais makes a motion to approve the minutes, second by Mr. Milone. Motion passes.

ACTION ITEMS

- 1) File # 12-006 (Wilson)

Mr. Milone states that base upon the record; he finds the entire case Unfounded. He further states that based on the policy the officer had the right to use the TASER. Mr. Wilson, in his interview, states that he didn't hear the officer say anything prior to the time he reached the second set of stairs of the residence however in the TASER video you can see Mr. Wilson running and hear Officer Leahy telling him to get down on the ground, or something like that. So looking at entire file; racial profiling – Chief Lee gave us the report showing he arrested 39 white and 11 blacks and Leahy was executing a bench warrant. As far as abuse of authority, Officer Leahy was executing a bench warrant, signed by a judge, takes him into custody. I don't see any basis for manipulation or use of the TASER. Officer was within policy. Mr. Milone sees the reasonableness in it and makes a motion of finding of Unfounded.

Mr. Milone makes a motion that the charge of Racial Profiling be unfounded, second by Mr. Pais. Motion passes by unanimous vote.

Mr. Milone makes a motion that the charge of Abuse of Authority be unfounded, second by Ms. Altobello. Motion passes by unanimous vote.

Mr. Pais points out that he's still not certain that the use of the TASER was appropriate in this situation. He goes on to say that he wishes the TASER video would have shown what went on prior to Mr. Wilson running and questions if the officer knew where Mr. Wilson was going. He questions why the officer didn't let him go into the apartment, if there was another point of exit or not, rather than shoot him with the TASER on the staircase. Mr. Pais feels officers should receive more training in the use of the TASER.

Mr. Milone makes a motion that the charge of Manipulation be unfounded, second by Mr. Beaver. Motion passes by unanimous vote.

Mr. Milone makes a motion that the charge of Improper Use of the TASER be unfounded, second by Ms. Altobello.

The motion passed by the following vote:

YES – Mr. Milone, Mr. Magby, Ms. Altobello, Mr. Behrend, Mr. Beaver

NO – Mr. Pais

ABSENT – Dr. Collins

2) File #12-009 (Butler)

Mr. Beaver points out that some of the concerns were the posting of signs and the notifications of tenants as to their responsibility with regards to guests on their property. We have a letter from the Housing Authority to Chief Lee in reference to that issue.

Mr. Milone questions whether Ms. Butler has ever seen this letter. Ms. Butler states no.

Mr. Cintron gives his interpretation of the Landlord-Tenant law. He states that the housing authority is governed by the Florida Landlord/Tenant law but there is nothing that speaks to the issue of enforced rules to remove people from the premises who are not residents. Nor is there anything that discusses whether the landlord can delegate an authority to enforce the rules. So my conclusion is that if the land authority chooses to have a rule such as this and chooses to allow the PD to enforce that rule, it's within the housing authority to do so as long as it's not done in a discriminatory fashion.

Mr. Beaver clarifies Mr. Citrons' conclusion that the Police Department, based on that letter, has the authority to act on behalf of the landlord.

Mr. Milone believes that this is a miscommunication between Ms. Butler and the Housing Authority and questions how she was advised of the policies under question.

Mr. Manuel Castillo, Executive Director of the Housing Authority, says he doesn't believe there's a written rule that addresses escorting guests. The lease talks about the the residents being responsible for their guests. He further states there's not a rule that says you must escort your guests but if there's a problem with them the resident is responsible and then there's a problem with the lease. Everyone has a right to visitors but the properties are not public parks and just because someone has a relative living on one of the properties does not give someone the right to roam the properties. HA does not condone discrimination but if someone is not supposed to be on the property we want them to be advised of the policy and warned. The HA is being asked by other residents to control other people on the property. Mr. Castillo goes on to say that he can only address the specifics of the issue from the information on the report and reads that Ms. Butler states "**my brother was standing on the corner when the officer went by**" Mr. Castillo says that her brother is not visiting her if he's standing on the corner. He goes on to read "**when the officer made the U-turn my brother came up and sat on my porch**" Mr. Castillo says that sitting on the porch is not visiting that person either. The officer used his discretion by not issuing a "no trespass" warning and just explained the situation. Mr. Castillo further points out that the photos are not from Ms. Butlers' property but there are "no trespassing" signs posted on all properties and goes on to say that after talks with the State Attorneys' office, more signs will be posted.

Mr. Milone makes a motion that the charge of Harassment be unfounded, second by Mr. Beaver. The motion passes by unanimous vote.

3) Approval of 2013 Meeting Dates

Mr. Pais makes a motion that the meeting dates for 2013 be approved, second by Mr. Milone. The motion passes by unanimous vote.

DISCUSSION ITEMS:

1) Amend the rules to provide for the random selection of investigations by Internal Affairs including cases they decline to investigate.

Mr. Milone states that he wants the CRB to randomly investigate complaints that have already been investigated and closed to provide for quality assurance. Several of the Board members feel that this would be redundant, especially when the complaints were properly investigated and complainants were satisfied with the results. ED Srch points out that the annual report provides for quality assurance as it addresses any patterns in complaints as well as identifies repeat officers identified in those complaints. The annual report is available to the public and is specifically sent to all Commissioners, the City Manager, and Chief Lee. No further discussion on the topic.

2) Amend the rules to deal with the issue of someone filing a complaint on behalf of another.

Mr. Milone brings up the most recent complaint by Ms. Butler where she made the complaint on behalf of her adult brother. ED Srch states that while the complaint did start out as seeming to be filed on behalf of her brother it was Ms. Butler who also felt harassed based on the actions of the officer. ED further states that this policy is already informally in place and goes on a case by case basis because one problem with making a complaint on behalf of another is the Florida public records laws. Someone making a complaint on behalf of another, especially without that person's consent, could cause personal information to be shared, as any information in the complaint becomes public record and may infringe on the privacy of the actual victim. Mr. Cintron points out that an exception would be when someone witnesses an act of misconduct and makes a complaint to the CRB. It is agreed that procedures will continue on a case by case basis as determined by the Executive Director.

REPORTS:

There were no reports or tracking chart as the complaints on the agenda were the only ones in the system.

PUBLIC COMMENT:


Mr. John Walsh, Mr. Michael Walsh and Mr. Pablo Moya were all signed up to speak.

BOARD COMMENTS:

Mr. Pais asks about the letter of apology that the Board had requested the officer send to the complainant in the Dale (12-004) complaint. ED Srch states that she has not heard anything from the Police Department but will address this with Chief Lee at the monthly meeting on Friday, December 7, 2012.

ADJOURNMENT:

There being no further business the Chairman adjourned the meeting at 7:27 p.m.

A handwritten signature in cursive script, reading "Susan C. Srch", is written over a horizontal line.

Susan C. Srch, Executive Director