

**MEMORANDUM**

To: Board Agenda, May 20, 2021

From: Joel F. Foreman

**Re: Proposed resolution supporting creation of Citizens Advisory Board**

Date: May 14, 2021

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On February 4, 2021, Sylvester Warren made a presentation to the Board requesting the Board's support for the creation of a Citizens' Advisory Board ("CAB"). Mr. Warren acknowledged that the Board does not have the authority to require the Sheriff to create a CAB, but nevertheless he requested the Board's consideration of a recommendation that the Sheriff establish a CAB.

Mr. Warren discussed three iterations of CABs he has observed across the country. Each Commissioner expressed willingness to learn more about the CAB, but also noted deference to the Sheriff in law enforcement matters and expressed general support for a purely advisory body. The Commissioners indicated a desire to obtain input from the Sheriff before supporting the creation of a CAB, and stated that they were not opposed to a CAB but wanted to learn more about it.

I advised the Board that I would have Mr. Warren provide me with an example of the sort of CAB structure he was proposing. Mr. Warren provided that to me, and I have attached it to a proposed resolution that would reflect the Board's support for the creation of a CAB. This resolution does not create a CAB and does not compel the Sheriff to create a CAB. It expresses support for the sort of CAB Mr. Warren suggested.

**COLUMBIA COUNTY, FLORIDA  
RESOLUTION NUMBER 2021R-\_\_\_**

**A RESOLUTION OF THE BOARD OF COUNTY  
COMMISSIONERS FOR COLUMBIA COUNTY, FLORIDA,  
SUPPORTING THE ESTABLISHMENT OF A CITIZENS' REVIEW  
BOARD TO THE COLUMBIA COUNTY SHERIFF'S OFFICE.**

**WHEREAS**, the Board of County Commissioners has been requested to support the creation of a Citizens' Review Board to review and investigate complaints made against law enforcement officers deputized by the Columbia County Sheriff;

**WHEREAS**, the form of Citizens' Review Board is proposed to be composed, operated, empowered, and governed similar to the Citizens Police Review Board of Fort Myers, Florida, created pursuant to Division 3.5 of the Code of Ordinances of the City of Fort Myers, Florida, a copy of same being attached hereto; and

**WHEREAS**, the Board of County Commissioners, with full recognition of the Constitutional duties and powers of the Sheriff of Columbia County, by this Resolution wishes to express its support for the creation of such a Citizens' Review Board.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY  
COMMISSIONERS OF COLUMBIA COUNTY, FLORIDA, AS FOLLOWS**

1. The Board of County Commissioners for Columbia County, Florida, hereby offers its support for the creation of a Citizens' Advisory Board to the Columbia County Sheriff's Office (the "CAB").
2. Any such CAB created should be composed, operated, empowered, and governed in the same manner as set forth in Division 3.5 of the Code of Ordinances of the City of Fort Myers, Florida, a copy of which is attached hereto and incorporated by reference.
3. Specifically, any such CAB should:
  - a. Be advisory to the Sheriff, who shall be and remain in command of the Sheriff's Office and its deputies.
  - b. Review unsworn citizen complaints not currently investigated by the Sheriff's Office, and closed investigations conducted thereof, in the following instances:
    1. Use of deadly force.
    2. Alleged use of excessive force.
    3. Any instance wherein police action results in death or serious bodily injury.

4. Any complaint referred to it by a member of city council, city manager, or chief of police.
5. Any complaint selected by majority vote of the board for review.
- c. Refer any complaint made directly to the CAB to the Sheriff for initial investigation by the Sheriff's Office in accordance with the policies of the Sheriff's Office.
- d. Review the policies, procedures, rules, regulations, general or special orders pertaining to the use of force and conduct toward the citizenry.
- e. Following the review process as set forth in subsections (b), (c) and (d) above, submit a written report to the Sheriff.

**PASSED AND ADOPTED** in its regular session held on the \_\_\_\_ day of May 2021.

ATTEST:

BOARD OF COUNTY  
COMMISSIONERS OF  
COLUMBIA COUNTY, FLORIDA

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James M. Swisher, Jr., Clerk

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Rocky Ford, Chair

### *DIVISION 3.5. CITIZENS POLICE REVIEW BOARD*

#### **Sec. 2-120. Created; composition.**

Pursuant to the Charter, Section 83, there is hereby created a board of nine members to be known as the citizens' police review board. The members of such board shall be appointed in the manner and for the duties and obligations hereinafter provided. Each city council member shall nominate one member from each ward, the mayor shall nominate one member, and all members of city council shall nominate two members at large and submit same in writing to the city clerk, for a total of nine members. Each nominee shall be presented to the city council for consideration of appointment. After consideration of each nominee, the city council shall make such appointments to the board as it deems appropriate. Nominees that are not appointed by the city council shall be replaced with a new nomination from the person holding the position of the elected official making the original nomination. The city council shall make the final decision on all appointments.

(Ord. No. 3507, § 2, 4-20-2009)

#### **Sec. 2-121. Qualifications.**

Each member shall be a resident of the city, an American citizen, or resident alien of the United States. Resident alien shall mean those persons who have continuously resided in this state for at least one year and six months in the county and can provide documentation from the Bureau of Citizenship and Immigration Services evidencing permanent residency status in the United States. For the purpose of this division, a resident alien shall be considered a resident. If a member moves out of the city, they must resign from the board. Members cannot be a convicted felon unless their civil rights have been restored. Each member shall pass the standard city background check. Members must not be currently holding or running for political office in the city at any point during their term, if so, that member will be removed from the board. At the time of appointment a member cannot knowingly have a relative employed with the Fort Myers Police Department, and the definition of relative for purposes of this section only with respect to a member of the board means an individual who is related to that member as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(Ord. No. 3507, § 2, 4-20-2009)

#### **Sec. 2-122. Term.**

Board members shall be appointed for a three-year term. The terms of service of the members of the board shall be staggered. No person shall serve more than three full consecutive three-year terms. However, after a three-year period of non-membership on the board, that person will again become eligible for membership.

(Ord. No. 3507, § 2, 4-20-2009; Ord. No. 3818, § 1, 11-20-2017 )

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**Sec. 2-123. Oath, financial disclosure, officers, meetings; quorum; attendance; minutes; records, compensation.**

- (a) After nomination and appointment, the members of the citizens police review board shall be sworn in by the city clerk to perform the duties of the office.
- (b) Board members shall file disclosure of financial interest pursuant to F.S. § 112.3145.
- (c) The board shall meet and select a chair and vice-chair from among its members. The term of the chair and vice-chair shall be for one year, at which time the chair and vice-chair must be elected or reelected by the members. The chair and vice-chair may serve for two consecutive years, at which time a new chair and vice-chair must be elected by the members.
- (d) The board shall meet monthly unless there is no business or cases to come before the board or on request of the city manager or chair of the board.
- (e) A quorum of the board shall consist of a majority of the appointed members, but no less than five members, and an affirmative vote of the majority of the quorum present shall be necessary to pass any motion.
- (f) Board members shall be required to attend the meetings of the board. When unable to do so, each member shall so notify the board administrator or designee at least three days prior to the meeting. Failure to attend three consecutive regularly scheduled meetings will subject the member to removal from the board. Such vacancy shall be filled as provided in section 2-120.
- (g) Notice of the date, time, and location of all meetings shall be included on the notice of public meetings to comply with the Sunshine Law.
- (h) The members of the citizens' police review board shall serve without compensation.

(Ord. No. 3507, § 2, 4-20-2009; Ord. No. 3675, § 1, 9-3-2013 ; Ord. No. 3818, § 2, 11-20-2017 )

**Sec. 2-124. Training.**

Upon appointment to the board, each member shall be required to participate in a ride along at the discretion of the police chief on location and time, attend a use of force class not to exceed two hours per session, and any other training designed and prescribed by the police department or city manager.

(Ord. No. 3507, § 2, 4-20-2009)

**Sec. 2-125. Board administrator.**

- (a) Board administrator, who shall be the city clerk or designee. The board administrator shall perform the duties described in the board's policies and procedures for cases.
- (b) Board attorney, who shall be the city attorney or his designee (assistant city attorney or independent attorney appointed by city council). The board attorney shall assist with legal issues as to jurisdiction, procedures, and rules of order.

(Ord. No. 3507, § 2, 4-20-2009)

**Sec. 2-126. Budget.**

The city manager will recommend a budget for review and approval.

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(Ord. No. 3507, § 2, 4-20-2009)

**Sec. 2-127. Annual report.**

The board shall submit an annual report in writing to the city manager, mayor, city council, and chief of police to include statistics and summaries of citizen complaints, a comparison of the board findings and conclusions with the actions taken by the chief of police, recommendations related to changes in policies and procedures, and any recommended changes.

(Ord. No. 3507, § 2, 4-20-2009)

**Sec. 2-128. Board policies and procedures for cases.**

- (a) The citizens' police review board shall be advisory to the chief of police who shall at all times be and remain in command of the police department pursuant to the provisions of the Civil Service Act of 1935, as amended and Florida Statute, Chapter 112.533.
- (b) The board shall review unsworn citizen complaints not currently investigated by the police department, and closed departmental investigations conducted thereof, in the following instances:
  - (1) Use of deadly force.
  - (2) Alleged use of excessive force.
  - (3) Any instance wherein police action results in death or serious bodily injury.
  - (4) Any complaint referred to it by a member of city council, city manager, or chief of police.
  - (5) Any complaint selected by majority vote of the board for review.
- (c) If the citizens' police review board receives a complaint against a law enforcement officer, they shall within five business days forward the complaint to the employing agency of the officer who is the subject of the complaint for review or investigation.
- (d) The board shall review policies, procedures, rules, regulations, general or special orders pertaining to the use of force and police conduct toward the citizenry.
- (e) Following the review process as set forth in subsections (b), (c) and (d) above, the board shall submit a written report to the mayor, city council, city manager and chief of police. Said written report may contain any or all of the following:
  - (1) A recommendation for approval.
  - (2) A recommendation for disapproval.
  - (3) A recommendation for modification or amendment.
  - (4) A recommendation for additional information, additional investigation, or re-investigation in accordance with Law Enforcement Bill of Rights, Chapter 112, Florida Statutes.

The report shall state with specificity the grounds for such recommendation. The report shall be signed by the chair and be reflective of the majority of the board; written dissenting opinions/recommendations shall be signed and forwarded with the majority report.
  - (5) All actions of the board shall be in accordance with applicable law to include, but not be limited to, the Florida Public Records Law (Florida Statutes Ch. 119), Florida Government-in-the-Sunshine Law (Florida Statutes Ch. 286), and the Law Enforcement Officers Bill of Rights (Florida Statutes Ch. 112).

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(Supp. No. 43, Update 1)