



## CITIZEN POLICE REVIEW BOARD

816 Fifth Avenue, Suite 400  
Pittsburgh PA 15219  
412-765-8023 Telephone – 412-765-8059 Facsimile  
cprb@city.pittsburgh.pa.us

Adopted  
10/23/12

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**Minutes of the CPRB Meeting Held on September 25, 2012 (Mtg. No. 149)**  
**City Council Chambers**  
**510 City County Building**  
**Pittsburgh, PA 15219**  
**Neighborhood: Citywide**

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<b>Members Present:</b>	Mr. Ralph E. Norman Dr. Emma Lucas-Darby Ms. Leshonda R. Roberts Mr. Thomas C. Waters	<b>Excused:</b>	None
		<b>Absent:</b>	None
		<b>Vacancies:</b>	3 pending, 7/31/12

**Solicitors:** Mr. Robert J. Ridge, Esq.

<b>Staff Present:</b>	Ms. Elizabeth C. Pittinger, Executive Director Ms. Sherri Bridgett, Investigator Mrs. Kathy Carson, Investigator Ms. Michelle Gamble, Investigator Ms. Carolyn Gaskin, Executive Assistant	<b>Excused:</b>	Mr. Michael Ayoob, Intake Coordinator
		<b>Vacancies:</b>	Investigative Associate

### **Administrative Matters:**

At 6:10 p.m. Mr. Norman, Acting Chair, called the meeting to order. Mr. Norman welcomed everyone and moved into business seeking approval of the minutes from the July 24, 2012 board meeting.

A motion to adopt the meeting minutes for July 24, 2012 was offered by Ms. Roberts and seconded by Mr. Waters and approved unanimously.

### **Chair's Report**

Mr. Norman, Acting Chair, had no report and moved to the Executive Director's report.

### **Executive Director's Report (copy attached)**

Ms. Pittinger announced that the CPRB monthly meetings will now be broadcasted over the internet at [www.cprbpg.org](http://www.cprbpg.org), in an effort to further enhance accessibility to the public. Don Carpenter, an expert in the field, has agreed to live stream each meeting.

Ms. Pittinger reported on the status of the three vacant seats. All required notices advising appointing authorities were sent. On 9/11/12, City Council adopted a resolution submitting two names "*for consideration by the Mayor for an appointment to fill the expired terms on the Citizens Police Review Board, in accordance with the Pittsburgh City Code, Title Six, Conduct, Article VI, Citizen Police Review Board.*" The resolution is improper because it does not conform to the City Code. The seats are vacated due to disqualification and resignation; the terms expire 10/31/13.

As a potential remedy, Ms. Pittinger recommended that the Board consider directing the Solicitor to consider the feasibility of an action in mandamus to compel the appointing authorities to fulfill the duties specified by the Pittsburgh City Code, Title Six, Article VI, Chapter 662.04, as amended through March 2012.

Attorney Ridge briefed the Board on the general purpose of filing for a Writ of Mandamus. Mr. Ridge recommended that The Board authorize him to research the question about the likelihood of success of filing a writ of mandamus and to then delegate authority to the Executive Director and Chairman of The Board to authorize him to move forward with the filing of a writ of mandamus, if concluded that after the research it is a viable remedy. *(Transcript of discussion is attached)*

Mr. Waters conveyed a concern about ensuring that filing a writ of mandamus would be the vision of the entire Board and not an individual's idea or agenda. Ms. Roberts opined that a unanimous vote of the motion would demonstrate the solidarity of the Board, Dr. Darby concurred.

Mr. Waters offered an amendment to the motion by suggesting that while the research is being conducted by Attorney Ridge, the Board consider approaching City Council in an effort to exhaust every other possible avenue, consequently avoiding conflict. In opposition, Ms. Roberts emphasized that authorizing this course of action was necessary to assure the continuity of the Board's function and declined Mr. Waters' friendly amendment.

Ms. Pittinger described past deficiencies in the City Code which led to prolonged vacancies and mentioned the more recent amendments that were established to improve the appointment process. Ms. Pittinger referred to The Board's independence and pointed out that not having the required complement of seven members interferes with their ability to fulfill their mission.

*A motion to authorize Attorney Ridge to research a writ of mandamus and delegate authority to the Executive Director and Chairman of The Board, to authorize Attorney Ridge to move forward with filing a writ of mandamus, if it is concluded after the research that it is a viable remedy, was offered by Ms. Roberts and seconded by Dr. Darby. Motion adopted by 3 votes in favor, Mr. Norman, Ms. Roberts and Dr. Darby, 1 opposed, Mr. Waters.*

Ms. Pittinger suggested that the Board consider calling for an election of Chair and Vice Chair. The Board deferred further discussion of an election until the October 23, 2012 board meeting.

The Board discussed policy interests related to the "99 cars" and zone personnel assigned to the "99 car" duty. The public interest in these matters was generated by CPRB Case #10-21, the principals of which are involved in continuing civil litigation. Among the policy areas of interest:

- general purpose of "99" cars
- procedures used for field contacts/investigative stops
- personnel assignment criteria, accountability mechanisms for "99" car deployment
- target area designation, plainclothes Zone v. detective v. task force
- coordination with Zone's public safety committee for "99" car patrols
- applicability of directed patrols for the "99" duty/coordination with marked patrol units
- personnel impact of plainclothes assignments on uniformed patrols
- Zone Commander discretion v. Bureau-wide standards

- responsibilities of health care providers receiving injured persons involved in a police altercation

Mr. Norman, Acting Chair, recommended that the investigation into #10-21 remain suspended but that a public hearing be conducted to scrutinize the policy & procedures related to “99” cars. Moved by Mr. Waters, seconded by Dr. Darby, and adopted unanimously, 4-0.

On 9/10/12, a Town Hall Meeting with Chief Harper, sponsored by B-PEP, APA, the Black & White Reunion and the Western PA Black Political Assembly was held at the Homewood YMCA. Ms. Pittinger participated as requested by Chief Harper. Discussion included plainclothes patrols, Bureau discipline of officers and personal demeanor of officers patrolling in Zone 5. Commander Tim O’Connor, Zone 5, also participated and CPRB Members, Ralph E. Norman, Emma Lucas-Darby and Thomas C. Waters attended.

On 9/12/12, a hostage situation occurred on the 16<sup>th</sup> floor of Gateway Building 3, resulting in SWAT’s involvement. Ms. Pittinger observed the event and praises the swift and successful intervention of Bureau negotiators; there were no reported injuries to the hostage, actor or officers.

### **Case Review**

Mr. Norman moved to the case review agenda (copy attached). Copies of the agenda were made available to the public. Each case summary was reviewed and acted upon as noted (votes unanimous among attending members unless stated otherwise). (Actions taken are published here and on the CPRB website, [www.city.pittsburgh.pa.us/cprb](http://www.city.pittsburgh.pa.us/cprb)).

### **Public Comment:**

Mr. Norman invited public comment. Mr. Harry Liller offered public comment.

### **Next Meeting:**

Mr. Norman announced that the next regular board meeting is scheduled for 6:00 p.m., Tuesday, October 23, 2012 at the East Liberty Presbyterian Church, 116 S. Highland Avenue, Pittsburgh, PA 15206.

The meeting was adjourned at 7:15 p.m.

Respectfully submitted,

Carolyn L. Gaskin  
Executive Assistant

#### **Attachments:**

1. Executive Director’s Report
2. Case Review Agenda/Board Actions

### CPRB CASE REVIEW AGENDA

CPRB CASE NO. INVESTIGATOR	ALLEGATION(S)	SUMMARY	RECOMMENDATION	RATIONALE
<b>(SEE ADDENDUM) PUBLIC HEARING (0)</b>				
<b>FULL INVESTIGATION (3)</b>				
12-83/CARSON	Use of Force (PBP 12-6, 3.1) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O. used excessive force during the encounter.	AUTHORIZED FULL INVESTIGATION  <b>DARBY/WATERS/4-0</b>	Preliminary evidence suggests more investigation time is needed.
12-99/CARSON	Neglect of Duty (PBP 16-1, 3.13) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O.s neglected their duty.	AUTHORIZED FULL INVESTIGATION  <b>DARBY/WATERS/4-0</b>	Preliminary evidence suggests more investigation time is needed.
12-143/BRIDGETT	Unbiased Policing (PBP 11-3, 4.1;2) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7;4) Neglect of Duty (PBP 16-1, 3.13)	Cx. alleges that the S.O.s acted inappropriately during the encounter.	AUTHORIZED FULL INVESTIGATION  <b>DARBY/WATERS/4-0</b>	Preliminary evidence suggests more investigation time is needed.
<b>30 DAY EXTENSION OF FULL INVESTIGATION (1)</b>				
12-109/BRIDGETT	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7;3) Neglect of Duty (PBP 16-1, 3.13)	Cx. alleges that the S.O.s acted inappropriately and failed to make an arrest.	AUTHORIZED 30 DAY EXTENSION  <b>ROBERTS/DARBY/4-0</b>	The Complainant needs to be interviewed.
<b>UNFOUNDED (4)</b>				
12-111/BRIDGETT	Conduct Unbecoming a Member (PBP 16-1, 3.6;2) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O. mistakenly left a threatening message on her voicemail.	DISMISSED AS UNFOUNDED <b>MOVED TO RUDE &amp; DISCOURTEOUS</b>  <b>DARBY/ROBERTS/4-0</b>	The S.O. did not violate any PBP policy or procedure.
12-161/BRIDGETT	Conduct Unbecoming a Member (PBP 16-1, 3.6;2) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O. was rude & unprofessional during the encounter.	DISMISSED AS UNFOUNDED <b>MOVED TO RUDE &amp; DISCOURTEOUS</b>  <b>DARBY/ROBERTS/4-0</b>	There is not enough evidence to support the Cx.'s allegations.

<b>CPRB CASE NO. INVESTIGATOR</b>	<b>ALLEGATION(S)</b>	<b>SUMMARY</b>	<b>RECOMMENDATION</b>	<b>RATIONALE</b>
12-172/GAMBLE	Unbiased Policing (PBP 11-3, 4.1) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O. acted inappropriately while escorting her out of a concert.	DISMISSED AS UNFOUNDED  <b>ROBERTS/DARBY/4-0</b>	There is no evidence to determine whether the S.O. violated any PBP policy or procedure.
12-201/CARSON	Use of Force (PBP 12-6, 3.1) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O. confiscated his tickets and would not allow him access to a sporting event.	DISMISSED AS UNFOUNDED  <b>ROBERTS/DARBY/4-0</b>	The S.O. did not violate any PBP policies or procedures.
<b>UNSUSTAINABLE (2)</b>				
12-56/GAMBLE	Unbiased Policing (PBP 11-3, 4.1) Conduct Unbecoming a Member (PBP 16-1, 3.6) Motor Vehicle Stops (PBP 40-4, 3.2) Warrantless Searches & Seizures (PBP 45-2, 6.1)	Cx. alleges that the S.O.s have harassed her son on several occasions.	DISMISSED AS UNSUSTAINABLE  <b>DARBY/ROBERTS/4-0</b>	There is no evidence to support the Cx.'s allegations.
12-199/BRIDGETT	Conduct Unbecoming a Member (PBP 16-1, 3.6;2) Truthfulness (PBP 16-1, 3.19;3) False Reports (PBP 62-1, 2.10)	Cx. alleges that the S.O. gave him a false parking citation.	DISMISSED AS UNSUSTAINABLE <b>AUTHORIZE A WRITTEN LETTER TO THE CHIEF OF POLICE</b>  <b>DARBY/ROBERTS/4-0</b>	The Investigator will write a letter to address the issue.
<b>LACK OF COOPERATION (0)</b>				
<b>OTHER (2)</b>				
12-96/GAMBLE	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7) Towing Procedures: Reasons for Towing (PBP 41-04)	Cx. alleges that the S.O. towed her vehicle without cause.	AUTHORIZED SUSPENSION  <b>ROBERTS/WATERS/4-0</b>	A witness needs to be interviewed.
12-136/GAMBLE	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O. was rude during a traffic stop.	MOVED TO RUDE & DISCOURTEOUS HEARING  <b>DARBY/WATERS/4-0</b>	Cx. would like to participate in the next Rude & Discourteous Hearing.

### **Status of CPRB #10-21**

The executive director reported on the status of CPRB No. 10-21.

In anticipation of a verdict in the civil trial, CPRB #10-21 was placed into indefinite suspension at the CPRB meeting on 7/24/12. On 8/8/12 the jury found that the officers did not maliciously prosecute our complainant but deadlocked on the questions of excessive force and false arrest. This split outcome entitled our complainant to file for a new trial on the latter allegations. On 9/11/12 our complainant's lawyer petitioned Judge Lancaster for a trial date "as soon as practicable". A date hasn't been set as of today, 9/24/12.

Staff have developed several points of inquiry that deal with the peripheral issues of the complaint. Generally, the policies & procedures that the case illuminated such as:

- general purpose of "99" cars
- procedures used for field contacts/investigative stops
- personnel assignment criteria, accountability mechanisms for "99" car deployment
- target area designation, plainclothes Zone v. detective v. task force
- coordination with Zone's public safety committee for "99" car patrols
- applicability of directed patrols for the "99" duty/coordination with marked patrol units
- personnel impact of plainclothes assignments on uniformed patrols
- Zone Commander discretion v. Bureau-wide standards
- responsibilities of health care providers receiving injured persons involved in a police altercation

Mr. Norman, Acting Chair, recommended that the investigation into #10-21 remain suspended but that a public hearing be conducted to scrutinize the policy & procedures related to "99" cars. Moved by Mr. Waters, seconded by Dr. Darby, and adopted unanimously, 4-0.

The Board set the date, time of the hearing:  
Wednesday, November 14, 2012 at 5:30 p.m.  
Location to be determined.

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Noted by E.C.Pittinger,  
9/25/12

## MEMORANDUM

**To:** Honorable Members of the Board  
**From:** Elizabeth C. Pittinger  
Executive Director  
**Date:** September 24, 2012  
**Re:** Executive Director's Report: 9-25-12

Suite 400  
816 Fifth Avenue  
Pittsburgh PA 15219

412-765-8023 (Voice)  
412-765-8059 (Fax)  
cprb@pittsburghpa.gov



### Intake Summary through 09-24-12:

Citizen Complaints: 39    Pending Citizen Action: 170    EDI: 0    Total Intake: 229  
Out of Jurisdiction: 17    Statute of Limitation: 3

(Actual Totals for 2011:	CC: 38; PCA: 215; OJ: 18; SL: 09	EDI: 02	Total: 282)
(Actual Totals for 2010:	CC: 79; PCA: 221; OJ: 30; SL: 05	EDI: 01	Total: 336)
(Actual Totals for 2009:	CC: 80; PCA: 380; OJ: 18; SL: 09	EDI: 05	Total: 490)
(Actual Totals for 2008:	CC: 66; PCA: 288; OJ: 45; SL: 05	EDI: 03	Total: 412)
(Actual Totals for 2007:	CC: 71; PCA: 227; OJ: 65; SL: 08	EDI: 10	Total: 425)
(Actual Totals for 2006:	CC: 76; PCA: 280; OJ: 85; SL: 09		Total: 450)
(Actual Totals for 2005:	CC: 59; PCA: 284; OJ: 70; SL: 18		Total: 431)
(Actual Totals for 2004:	CC: 61; PCA: 352; OJ: 62; SL: 14		Total: 489)
(Actual Totals for 2003:	CC: 61; PCA: 380; OJ: 66; SL: 20		Total: 527)
(Actual Totals for 2002:	CC: 75; PCA: 330; OJ: 83; SL: 26		Total: 514)
(Actual Totals for 2001:	CC: 77; PCA: 362; OJ: 87; SL: 11		Total: 537)
(Actual Totals for 2000:	CC: 75; PCA: 394; OJ: 92; SL: 30		Total: 590)
(Actual Totals for 1999:	CC: 80; PCA: 383; OJ: 27; SL: 11		Total: 501)

### 1. Board Status

- a. Council Members, the Mayor, and City Solicitor were properly notified of the following vacancies requiring successor appointments:
  - i. Ms. Debora Whitfield, CC Seat #4, term expires 10/31/13 (parties notified on 6/18/12 and 7/2/12)
  - ii. Ms. Deborah Walker, LEP Seat CC #2, term expires 10/31/13 (parties notified on 7/2/12)
  - iii. Mr. Thomas Kolano, CC Seat #3, term expires 10/31/13 (parties notified on 7/2/12)
- b. If procedures were followed, successors would have been seated by the 9/25/12 meeting.
- c. Several people informed the CPRB executive director of their interest in serving on the CPRB. On 8/14/12, Pittinger sent by email the names, résumés if available and contact information to the City Clerk for distribution to Council for nomination consideration.
- d. On 9/11/12, City Council adopted a resolution submitting the names of two persons "for consideration by the Mayor for an appointment to fill the expired terms on the Citizens Police Review Board, in accordance with the Pittsburgh City Code, Title Six, Conduct, Article VI, Citizen Police Review Board." (copy attached)
- e. Unfortunately, the resolution noted at item (d) does not conform to the City Code, §662.04(f) as amended in March 2012. (copy attached)
- f. Recommendation: That the Board consider directing the Solicitor to file an action in mandamus to compel the appointing authorities to fulfill the duties specified by the Pittsburgh City Code, Title Six, Article VI, Chapter 662.04 as amended through March 2012.

## 2. Status of CPRB #10-21

In anticipation of a verdict in the civil trial, CPRB #10-21 was placed into indefinite suspension at the CPRB meeting on 7/24/12. On 8/8/12 the jury found that the officers did not maliciously prosecute our complainant but deadlocked on the questions of excessive force and false arrest. This split outcome entitled our complainant to file for a new trial on the latter allegations. On 9/11/12 our complainant's lawyer petitioned Judge Lancaster for a trial date "as soon as practicable". A date hasn't been set as of today, 9/24/12.

Staff have developed several points of inquiry that deal with the peripheral issues of the complaint. Generally, the policies & procedures that the case illuminated such as:

- general purpose of "99" cars
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- personnel impact of plainclothes assignments on uniformed patrols
- Zone Commander discretion v. Bureau-wide standards
- responsibilities of health care providers receiving injured persons involved in a police altercation

As to be expected, our access to some of the evidentiary documents in which we are interested has been limited while our complainant's lawyers develop their strategy for trial.

My recommendation is to hold the case pending the new trial as related to our complainant's specific allegations and collateral issues arising from trial testimony **but** go forward with the review of the policies & procedures affecting local Zone deployment of plainclothes officers known as "99" car units.

The policy review should be the subject of a public hearing and I suggest ordering that the public hearing be held during the week of 11/12/12. (A public hearing requires a quorum vote in favor of the subject hearing.)

If you order a hearing, here's what will happen:

We will develop a briefing document for you on the points of inquiry prior to the public hearing. At the hearing you will receive testimony from experts on police management, police administration, officers, civilians experienced with "99" car patrols (possibly our #10-21 complainant), zone public safety committee members and the general public. You will create a record and receive information regarding best practices & local practices from which you will determine what, if any, recommendations should be offered to the Chief and Mayor.

## 3. Miscellaneous

- a. 9/10/12: A Town Hall meeting with Chief Harper was held at the Homewood YMCA. The event was sponsored by the Black Political Empowerment Project (B-



PEP), The Alliance for Police Accountability (APA), the Black & White Reunion and the Western PA Black Political Assembly. Members Norman, Darby and Waters attended. Pittinger participated as requested by Chief Harper. Much of the discussion involved the plainclothes patrols, Bureau discipline of officers and the personal demeanor of officers patrolling in zone 5. Commander Tim O'Connor, Zone 5, also answered questions and reiterated his commitment to upholding the laws and improving neighborhoods safety.

- b. 9/21/12: Gateway hostage situation. At about 8:16 a.m. a man entered an office on the 16<sup>th</sup> floor of Gateway Building 3, took a hostage and threatened harm to anyone approaching the floor. SWAT's containment of the incident to the subject office was swift which permitted quick, and ultimately successful, intervention by Bureau negotiators. The hostage was released by 1:50 p.m. and there were no reported injuries to the hostage, actor or officers.

Respectfully submitted,



9/24/2012

Re: Appointment Process to Board vacancies: 2012

In August 2010 the ordinance was amended to provide a specific process for the appointment of CPRB Members and successor members to unexpired terms. In March, 2012, the ordinance was again amended to clarify "vacancy" and establish time limitations on appointing authorities.

In May 2012, two members were appointed and one was reappointed, yielding a full complement of seven members. In June, one incumbent resigned due to a disqualifying relocation and in July two more members resigned due to scheduling conflict and a disqualifying relocation. Proper notice under §662.04(b)(4) was given on June 18, 2012 and July 2, 2012. Two of the vacancies are civilians and one is a Law Enforcement Professional, all are designated City Council seats and all three terms expire on 10/31/13.

Under the ordinance, three nominees per vacancy are required. On 8/14/12 several names of persons interested in serving on the CPRB were sent to the City Clerk for distribution to City Council members for nomination consideration.

On 9/11/12, City Council submitted two names to the Mayor for appointment to unexpired terms. This submission is not in conformance to the City Code and the Mayor has no duty to act on this resolution, nor merit criticism for ignoring it. In the alternative, §662.04(f) (9) gives the Mayor the discretion to appoint a person of his/her choosing if Council fails to submit three names for each opening on the Board.

A proper nominating resolution would identify three nominees per vacant seat and identify the member to be succeeded, the seat designation, whether or not it was an LEP seat, and the term expiration date. In the present situation, a total of nine nominees (six civilian and three Law Enforcement Professionals) are required to comply with the City Code.

"§662.04(e)(3) (ii)

The three (3) nominees for each City Council appointment shall be selected in the following manner:

- a. The Council President creates three (3) sub-committees of City Council, each of which selects one (1) nominee to submit to the Mayor. No Council member shall serve on more than one (1) sub-committee. In the event of a vacancy within a Council office, the President shall appoint at their discretion a sub-committee of no less than two (2) members.
- b. Each sub-committee nominee is submitted to the President who shall, at their discretion, guarantee that no one (1) person is nominated by more than one (1) sub-committee.
- c. Once the three (3) nominees have been submitted and received by the President, all three (3) nominees are sent to the Mayor via resolution."

The most recent (3/2012) amendments to the ordinance affecting appointments to vacancies are incorporated in the following:

§662.04 Board Members

- (a) The Board shall consist of seven (7) members reflecting Pittsburgh's diversity, who shall be appointed by the Mayor. Four (4) of the original members shall be appointed to four (4) year terms and three (3) shall be appointed to two (2) year terms, and all shall serve until the appointment of their successors. Persons appointed to fill vacancies shall serve for the balance of the terms for which their predecessors were appointed. All other appointments shall be for terms of four (4) years.
- (b) All appointees and sitting board members shall be residents of the City of Pittsburgh, shall not be employed by the City or any of its authorities, shall not hold any other public office and shall serve without compensation. Board members may, however, be reimbursed for expenses incurred in the direct implementation of the Board's responsibilities. No resident who has been convicted of a felony or a misdemeanor, excluding summary offenses, shall serve as a Board member. Persons appointed to the Board shall be fair minded and committed to the efficient and effective operation of the Board.
1. In the event an appointee is confirmed to be a member of the Board they shall maintain their city residency in order to maintain the ability to serve as a member of the board.
  2. In the event that a member of the board should no longer be a city resident, that member shall immediately convey written notice of their non-residency status and their ensuing inability to serve to the Chair and Vice Chair of the board. Such notice shall be deemed a resignation from the Board. If the Member sends notice in advance of their actual non-residency status they may serve until the date the actual non-residency status takes effect.
  3. In the event that the member fails to disclose a change in residency which would disqualify the member from serving as a member of the board and that disqualification is alleged by anyone, discovered or otherwise comes to the attention of the executive director or Chair of the board, the residency shall be verified by the executive director and conveyed to the Chair of the board. If the subject residency is found to disqualify the member, the seat will be deemed vacant.
  4. Upon receipt of said notice, the Chair shall take appropriate action to notice all other board members, the Mayor, City Council, the City Clerk, and the City Solicitor that a vacancy exists on the Board.
- (c) The Mayor shall make appointments for the inaugural board in the following manner: Four (4) appointments, of which two (2) shall be for initial four (4) year terms and two (2) for initial two (2) year terms, shall be made from a list of nine (9) nominations submitted to the Mayor by the City Council. Council will forward such nominations to the Mayor by resolution and shall do so no later than thirty (30) days prior to the effective date of this Chapter.
- (d) City Council shall submit a list of up to nine (9) nominations to the Mayor for consideration via resolution. Each member may submit one (1) nomination for consideration. Four (4) appointments shall be

made from the list of up to nine (9) nominations submitted to the Mayor by the City Council, and the Mayor shall add three (3) names to form a properly constituted board.

- (e) After seating of the appointments made in 2010, successive members to fill expired terms shall be selected in the following manner:
- (1) One hundred eighty (180) days prior to any member's term expiration the board Chair shall cause the public to be notified of the pending expiration of the term of the member(s). Public notice shall identify the Seat occupied, the name of the member whose term is to expire, the date they were appointed and the date their term expires, identify if the member is a mayoral appointment, a City Council appointment, and/or if the member has had experience in law enforcement.
  - (2) One hundred fifty (150) days prior to any member's term expiration the board Chair shall send notice of the pending expiration of the term of the member(s) to all members of the board, the Board's executive director, the Mayor, City Council, the City Clerk, and the City Solicitor. The notice shall identify the name of the member whose term is to expire, the date they were appointed and the date their term expires, declare if the member is a designated mayoral appointment, a designated City Council appointment, and/or if the member has had experience in law enforcement.
  - (3)
    - (i) Ninety (90) days prior to the term expiration of a City Council appointment, City Council shall provide notice to the mayor of the impending term expiration date, the identified incumbent(s), the occupied Seat(s), the date of original appointment(s), whether the incumbent(s) served as a Law Enforcement Professional (LEP) and shall provide a new list of three (3) nominations submitted by Council by resolution, each nominee's LEP status and each nominee's validation of qualification to serve as a Board member.
    - (ii) The three (3) nominees for each City Council appointment shall be selected in the following manner:
      - a. The Council President creates three (3) sub-committees of City Council, each of which selects one (1) nominee to submit to the Mayor. No Council member shall serve on more than one (1) sub-committee. In the event of a vacancy within a Council office, the President shall appoint at their discretion a sub-committee of no less than two (2) members.
      - b. Each sub-committee nominee is submitted to the President who shall, at their discretion, guarantee that no one (1) person is nominated by more than one (1) sub-committee.
      - c. Once the three (3) nominees have been submitted and received by the President, all three (3) nominees are sent to the Mayor via resolution.



- (iii) Sixty (60) days prior to the term expiration of a City Council nominated appointee, the Mayor shall provide notice to City Council of the impending term expiration date, the identified incumbent, the occupied Seat, the date of original appointment, whether the incumbent served as a Law Enforcement Professional (LEP) and shall provide the nominated successor's name, term period, LEP status and validation of qualification to serve as a Board member.
- (iv) If the Mayor fails to appoint Board members within thirty (30) days of being forwarded nominations, City Council shall appoint Board members via resolution for any existing Council nominated expired terms. The selection shall be made from the list of three (3) nominees originally submitted to the Mayor.
- (4) Sixty (60) days prior to the term expiration of a mayoral appointment, the Mayor shall provide notice to City Council of the impending term expiration date, the identified incumbent, the occupied Seat, the date of original appointment, whether the incumbent served as a Law Enforcement Professional (LEP) and shall provide the nominated successor's name, LEP status and validation of qualification to serve as a Board member.
- (5) City Council shall initiate the confirmation process for the nominated successor appointee(s) upon receipt of the Mayor's notice of nomination(s) of successor appointee(s) for mayoral and City Council seats. City Council shall provide notice by resolution to the Mayor of the approval or disapproval of the appointment(s) no later than fifteen (15) days prior to the expiration of the subject term.
- (6) The Mayor shall execute the appointment of approved nominees no later than five (5) days prior to the expiration of the subject term.
- (7) ~~The appointee(s) shall be sworn into the office and serve until their appointed term expires, they are reappointed, the appointee becomes disqualified or no more than thirty (30) days after their term expires and a successor is appointed or the appointing authority fails to act.~~  
The appointee(s) shall be sworn into the office designated by the appointed seat and shall serve until such time as:
  - a. The appointed term has expired and a successor has been appointed or
  - b. The member is reappointed or
  - c. The member becomes disqualified or
  - d. If 30 days have elapsed since the expiration of the appointed term and designated authority has failed to appoint a successor the incumbent shall be deemed as reappointed and shall serve the successor term as if having been newly appointed to the successor term.
- (8) Should the Mayor, at any point, fail to follow the notification process, City Council reserves the right to appoint a new nominee by a majority vote during a legislative session of City Council. Once a nomination has been made, Council shall schedule an interview and follow with a majority vote to confirm the nominee during a legislative session of City Council. In the event a nominee fails to

receive a majority vote, Council shall repeat the process with a new nominee until an appointment is confirmed by majority vote.

(9) Should City Council fail to submit three (3) names for each opening on the Board, the Mayor is given the right to appoint a member of his or her choosing.

(f) After seating of the appointments made in 2010, when a vacancy occurs the board chair shall provide written notice of the vacancy to all members of the board, the Board's executive director, the Mayor, City Council, the City Clerk, and the City Solicitor.

(1) The notice shall contain: the name of the member whose seat has been vacated, the seat held by the member, the date the member was appointed and the date the term expires, the reason for the vacancy, and if the member was appointed as a designated Law Enforcement Professional (LEP).

(2) Within thirty (30) days of the notice from the board chair that a term vacancy exists in a seat appointed by designated City Council, City Council shall submit a list of three (3) nominations to the Mayor for consideration via resolution. City Council shall follow the process delineated in (e)(3)(ii) to select each nominee. The Mayor shall submit an appointee from the list of three (3) nominees to City Council for confirmation.

- a. City Council shall follow the process delineated in (e)(3)(ii) to select each nominee.
- b. The Mayor shall submit an appointee from the list of three (3) nominees to City Council for confirmation within 30 days of the transmittal date of the nominating resolution.
- c. If the mayor fails to appoint a successor Board member within 30 days of the transmittal date of the nominating resolution, City Council shall will appoint a qualified nominee via resolution to the vacancy existing in the designated City Council seat within 15 the days following the conclusion of the 30 day period in which the Mayor has failed to submit an appointee from the nominating resolution.
- d. The appointment shall be made from the list of three (3) nominees originally submitted by resolution to the Mayor

(3) Within thirty (30) days of notice from the board chair that a term vacancy exists in a term appointed by the Mayor designated Mayoral seat, the Mayor shall submit an appointee to City Council for confirmation.

- a. If City Council fails to confirm the mayoral appointee within thirty (30) days of being forwarded the nomination, the appointee is automatically selected to complete the term of the designated Mayoral seat on the board.
- b. If the Mayor fails to appoint a successor to a vacant term in a designated mayoral seat within thirty (30) days of notice that a vacancy exists in a

- designated mayoral seat City Council reserves the right to appoint a successor by a majority vote during a legislative session of City Council.
- c. Such election shall be exercised by City Council within 15 days of the conclusion of the 30 day period during which the Mayor has failed to submit a successor to the subject vacant term. Once a nomination has been made, Council shall will schedule an interview and follow with a majority vote to confirm the nominee during a legislative session of City Council.
  - d. In the event a nominee fails to receive a majority vote, Council shall repeat the process with a new nominee until an appointment is confirmed by majority vote.
- (g) In making such nominations and appointments to the Board, the Mayor and Council shall use their best efforts to create and maintain a Board reflecting the diversity in the population of the City. The Board shall be comprised of and no more than two (2) persons, one (1) being Mayoral and one (1) being Council, who are experienced as law enforcement professionals. However, no Board member shall be a sworn, currently employed, law enforcement officer. When a vacancy seated by a law enforcement professional occurs, Council and the Mayor shall select a replacement member with a law enforcement background.

(Ord. 29-1997, eff. 8-15-97; Am. Ord. 7-2000, eff. 3-9-01; Ord. No. 24-2010, § 1, eff. 8-3-10)

*(Emphasized text reflects amendments by 2012-0143, effective 3/26/12. Unofficial document prepared for convenience by Pottinger)*



## City of Pittsburgh

510 City-County Building  
414 Grant Street  
Pittsburgh, PA 15219

### Legislation Details (With Text)

**File #:** 2012-0722 **Version:** 1

**Type:** Appointment-Informing **Status:** Read, Received and Filed

**File created:** 9/11/2012 **In control:** Hearings Committee

**On agenda:** **Final action:** 9/11/2012

**Enactment date:** **Enactment #:**

**Effective date:**

**Title:** Resolution submitting the names of Misi Bielich and Paul S. Homick for consideration by the Mayor for an appointment to fill the expired terms on the Citizens Police Review Board, in accordance with the Pittsburgh City Code, Title Six, Conduct, Article VI, Citizen Police Review Board.

**Sponsors:**

**Indexes:** APPOINTMENTS AND RE-APPOINTMENTS

**Code sections:**

**Attachments:** 2012-0722.doc

Date	Ver.	Action By	Action	Result
9/11/2012	1	City Council		

**Presenter**  
Presented by Mrs. Harris

**Title**  
Resolution submitting the names of Misi Bielich and Paul S. Homick for consideration by the Mayor for an appointment to fill the expired terms on the Citizens Police Review Board, in accordance with the Pittsburgh City Code, Title Six, Conduct, Article VI, Citizen Police Review Board.





## City of Pittsburgh

510 City-County Building  
414 Grant Street  
Pittsburgh, PA 15219

### Legislation Details (With Text)

**File #:** 2012-0143 **Version:** 2  
**Type:** Ordinance **Status:** Passed Finally  
**File created:** 2/28/2012 **In control:** Public Safety Services Committee  
**On agenda:** **Final action:** 3/13/2012  
**Enactment date:** 3/13/2012 **Enactment #:** 6  
**Effective date:** 3/26/2012

**Title:** Ordinance amending the Pittsburgh City Code, Title Six: Conduct, Article VI: Citizen Police Review Board, Chapter §662.04(e), Section (7), by delineating the process to follow should the appointing authority fail to designate a successor for an expired seat in the Citizens Police Review Board, and amending Pittsburgh City Code, Title Six: Conduct, Article VI: Citizen Police Review Board, Chapter §662.04(f), Sections (2) & (3), by delineating the process to follow for nominations of vacant terms to the Citizens Police Review Board that require confirmation from the Mayor, and for vacant terms requiring confirmation from City Council.

**Sponsors:** R. Daniel Lavelle

**Indexes:** PGH. CODE ORDINANCES TITLE 6 - CONDUCT

**Code sections:**

**Attachments:** 2012-0143.doc, 2012-0143 VERSION 2.doc

Date	Ver.	Action By	Action	Result
3/22/2012	2	Mayor	Signed by the Mayor	
3/13/2012	2	City Council	Passed Finally	Pass
3/7/2012	1	Standing Committee	Affirmatively Recommended as Amended	Pass
3/7/2012	1	Standing Committee	AMENDED	Pass
2/28/2012	1	City Council	Read and referred	

#### Title

Ordinance amending the Pittsburgh City Code, Title Six: Conduct, Article VI: Citizen Police Review Board, Chapter §662.04(e), Section (7), by delineating the process to follow should the appointing authority fail to designate a successor for an expired seat in the Citizens Police Review Board, and amending Pittsburgh City Code, Title Six: Conduct, Article VI: Citizen Police Review Board, Chapter §662.04(f), Sections (2) & (3), by delineating the process to follow for nominations of vacant terms to the Citizens Police Review Board that require confirmation from the Mayor, and for vacant terms requiring confirmation from City Council.

#### body

**The Council of the City of Pittsburgh hereby enacts as follows:**

**Section 1.** The Pittsburgh City Code, Title Six: Conduct, Article VI: Citizen Police Review Board, Chapter § 662.04(c) (7) is hereby amended as follows:

7) [The appointee(s) shall be sworn into the office and serve until their appointed term expires, they are reappointed, the appointee becomes disqualified or no more than thirty (30) days after their term expires and a successor is appointed or the appointing authority fails to act.]

The appointee(s) shall be sworn into the office designated by the appointed seat and shall serve until such time as:

- a) The appointed term has expired and a successor has been appointed or
- b) The member is re-appointed or
- c) The member becomes disqualified or
- d) If 30 days have elapsed since the expiration of the appointed term and the designated authority has failed to appoint a successor the incumbent shall be deemed as reappointed and shall serve the successor term as if having been newly appointed to the successor term.

Section 2. The Pittsburgh City Code, Title Six: Conduct, Article VI: Citizen Police Review Board, Chapter § 662.04(f) (2) & (3) is hereby amended as follows:

(2) Within thirty (30) days of the notice from the board chair that a term vacancy exists in a [seat-appointed by] designated City Council seat, City Council shall submit a list of three (3) nominations to the Mayor for consideration via resolution. ~~{City Council shall follow the process delineated in (e)(3)(ii) to select each nominee. The Mayor shall submit an appointee from the list of three (3) nominees to City Council for confirmation.}~~

- a) City Council shall follow the process delineated in (e)(3)(ii) to select each nominee.
- b) The Mayor shall submit an appointee from the list of three (3) nominees to City Council for confirmation within 30 days of the transmittal date of the nominating resolution.
- c) If the Mayor fails to appoint a successor Board member within 30 days of the transmittal date of the nominating resolution, City Council shall will appoint a qualified nominee via resolution to the vacancy existing in the designated City Council seat within the 15 days following the conclusion of the 30 day period in which the Mayor has failed to submit an appointee from the nominating resolution.
- d) The appointment shall be made from the list of the three (3) nominees originally submitted by resolution to the Mayor

(3) Within thirty (30) days of notice from the board chair that a term vacancy exists in a [term-appointed-by the Mayor] designated Mayoral seat, the Mayor shall submit an appointee to City Council for confirmation.

- a) If City Council fails to confirm the Mayoral appointee within (30) days of being forwarded the nomination, the appointee is automatically selected to complete the term of the designated Mayoral seat on the board.
- b) If the Mayor fails to appoint a successor to a vacant term in a designated mayoral seat within thirty (30) days of notice that a vacancy exists in a designated mayoral seat City Council reserves the right to appoint a successor by a majority vote during a legislative session of City Council.
- c) Such election shall be exercised by City Council within 15 days of the conclusion of the 30 day period during which the Mayor has failed to submit a successor to the subject vacant term. Once a nomination has been made, Council shall will schedule an interview and follow with a majority vote to confirm the nominee during a legislative session of City Council.
- d) In the event a nominee fails to receive a majority vote, Council shall repeat the process

with a new nominee until an appointment is confirmed by majority vote.

1 **Mr. Ridge:** A Writ of mandamus is a writ telling a public official to do what a public official is supposed to do. Writs of  
2 mandamus are they are relatively rare. They're granted even more rarely. But under these circumstances the viability of  
3 this group is actually sort of at risk so it seems to me that if you were going to grant a writ of mandamus this is the  
4 appropriate circumstance to do it.

5 What I am going to recommend to the Board is to authorize me to research the question about the likelihood of success of  
6 filing for a writ of mandamus and to make a recommendation to the executive director and chairman of the Board and I'm  
7 going to suggest that you delegate to those two the authority to authorize me to go forward with the filing of a writ of  
8 mandamus if I've concluded after the research that it is a viable remedy in this circumstance.

9 **Ms. Roberts:** Then I would like to make a motion that that you go ahead and do that research that would be  
10 necessary for you to begin proceedings on that and if so moved too that we do upon that that we go ahead  
11 give the you know the authority to authorize that if that's what is determined to be the next course of action

12 **Mr. Norman:** and that was a motion?

13 **Ms. Roberts:** that was a motion

14 **Dr. Darby:** second

15 **Mr. Norman:** all in favor

16 **Mr. Waters:** are we going to have a discussion on the question?

17 **Ms. Roberts:** we can if you like,

18 **Mr. Waters:** I understand the idea and I'm all in favor of research. It's my opinion however that if we were to  
19 move in that direction it should be the entire Board that stands behind it and the reason I feel that way is  
20 because I believe that efforts in the past have been sometimes misconstrued as being about individual's ideas  
21 or individuals' agendas and so I think that it's as a Board I would want us to but I would want it to be very clear  
22 that it's the entire board that asks Council or is demanding that city Council take their work so seriously so that  
23 there isn't any question about where that's coming from. Does that make sense

24 **Mr. Ridge:** Yes I think that's a really good point let me raise this issue for you though. One of the concerns I  
25 have is that if we wait till the next hearing in October and we lose people or we don't have a quorum then I'll go  
26 from two weeks to four weeks to eight weeks. That's the concern. It's up to the board but I can behave either  
27 way. So that you understand Mr. Waters that's my concern.

28 **Mr. Waters:** yes I do

29 **Ms. Roberts:** I think the motion is us as our solidarity as the board together saying this is what the board wants  
30 I think it's a technicality to say that upon his findings that we're giving the authority to the chair and the  
31 executive director. I'm not saying that they have all authority what I'm saying is that by this motion that the  
32 board itself is in (agreement) that this is something that I'm putting it out there. Do we all agree that this is  
33 something we would want to pursue considering his findings if we all agree that this is something that we would  
34 want to pursue based on his findings then I think that is reasonable to say that if he comes up with the findings  
35 that that is necessary that if we make this motion now as a Board that is us and our solidarity saying this is  
36 what the Board wants therefore they can take that action that's what I guess is that the question, do we all  
37 agree as a Board that's what we want

38 **Dr. Darby:** I saw the motion if it passed as the voice of the committee saying this is the action that we want. So  
39 Mr. Waters that's the way I interpreted it but if there's a dissenting opinion we would have to consider that..and  
40 it wouldn't be a full... in unanimity.

41 **Mr. Ridge:** One of the other things I can do is, you can delegate that authority to to the executive director and  
42 the chair, but I can still inform all members of the board that the the results of my research.

43 **Mr. Norman:** That would be my suggestion I would email every member and get their opinion before I make a  
44 final decision.

45 **Mr. Waters:** My intention is entirely we had a of volatile history with city Council and my intention entirely is not  
46 making that any more volatile and by taking an action you yourself deem as unusual we have some possibility  
47 for that so I just want it to be as crystal clear that this is the entire board taking action and I don't want there to  
48 be any wiggle room in there for someone to take it otherwise. And so I think by both the minutes recognizing  
49 that if we approve this it's the entire board standing behind it and I..are you agreeing then to share your  
50 research then with everyone on the board that goes a long way. I think my only other question is have we  
51 exhausted all avenues like what I don't know enough about how City Council works is what are the normal  
52 procedures to make them do what they're supposed to do is that a reasonable question?

53 **Mr. Norman:** Just one second... I was the Sgt.-at-Arms at City Council for a year. There were two instances  
54 where the chairman of a certain committee was holding a meeting and he needed other members to form a  
55 quorum and I had to go to the office of three councilmen two council members handcuff them and bring them  
56 into Council because they refused to come in because they were too busy on the telephone. There's your city

57 Council and some of those members now were not council members they were chiefs of staff for council  
58 members at the time. So I'm sure they remember.

59 **Ms. Roberts:** Well respectfully to this City Council.. though you're right about that Ralph though I don't view  
60 them all with that same dynamic however at the same time that being said the writ of mandamus itself is going  
61 to be offensive no matter what however I think that we should take it as a little bit offensive that these steps  
62 have not been met at this point and that we can't function as a board don't get me wrong I love City Council I  
63 think they're very diligent on many things however in respect to the board that I'm on which is this board they  
64 haven't taken the necessary steps therefore it's a little offensive to us that we can't work the way we should so  
65 that no matter what it's going to be offensive no matter what you do but it's a very necessary thing at this point  
66 for us to function I feel.

67 **Mr. Ridge:** I think the concern would be that you would lose a few more people and then you can never  
68 constitute a quorum...that's the issue.

69 **Ms. Roberts:**... if we don't take action now while we have a quorum before that we have then in essence we're  
70 going to be crippled and we won't continue on.

71 **Mr. Waters:** Well I can vote in favor of this we haven't actually called for the vote yet but I can vote in favor of it  
72 however I would like to ask that in addition to the pieces that we've already laid out if we could amend the  
73 motion that even while you do that research if we can make if we could make sure we have exhausted every  
74 other possibility one of those things it appears to me to be to ask for specific meetings with specific council  
75 members that we feel do understand our purpose and in a face-to-face meeting ask them if there's any piece..  
76 is there any way to get them to move. I just don't.. I because our volatile history I just don't want the only  
77 movement forward to be a pretty unusual legal event.

78 **Ms. Pittinger:** May I respond. Mr. Waters this has been going on since 2001. In regard to the City Council as  
79 an institution assuring that this Board has a full complement of members this would not be our first mandamus  
80 filed against the city we've done that before. But to your concern and I respect it you don't want us to look like  
81 were being confrontational or being negative towards them and disrespectful. I think Ms. Roberts makes a very  
82 valid point their actions towards you is manifest disrespect and it has been that way forever. But that said and  
83 aside back in August of 2010 when there was an effort to replace the members of the board under suspicious  
84 circumstances which... I think we're very fortunate that this board has benefited by citizens, citizen boards in  
85 general seem that members transcend the political stuff that goes on around it. I think this board is a perfect

86 example of how successful that is. The problem was there was no process to appoint people and say 'Oh,  
87 they're all gone' wipes out five of him. What happens... well what he did was not consistent with the city code.  
88 We found deficiencies within the city code and City Council this well not quite this sitting City Council but that  
89 sitting Council took underwrote rewrote that whole section of the appointment process to avoid the deficiencies  
90 that let this board sit for months and sometimes years with a vacancy and it was an awful lot of work. And then  
91 subsequent to that and Council passed it unanimously then we had the appointments made that included Mr.  
92 Norman and Ms. Roberts. Then we kind of come through until we come to this realization that there were still  
93 loopholes in the code and that's when Councilmen Lavelle this Spring sat down sweated through it figured it  
94 sorted it fixed it. Council this sitting Council this exact Council passed it unanimously and the Mayor signed it.  
95 So there was a lot of toil going into putting the past behind us let's put something in place that works it's  
96 objective it's the law and we have to follow it. And no matter what we think about it it's just it will work and will  
97 honor what the city charter requires to be in place. So we all went optimistically into this. Mr. Waters and Dr.  
98 Darby joined us in May and so did Mr. Kolano. But anyway when they left it was the first chance to test the  
99 March amendments which if they were applied and followed they would work. So for whatever reason Council  
100 chose not to follow that I can't answer for that. I know we gave them we gave them a calendar this is who's  
101 leaving this is the seat designation this is the term this is the number of days this is the calendar by which this  
102 must be accomplished and this person must accomplish it or this body must accomplish it. We gave it to them  
103 for every single vacancy. You can't be any clearer. They still didn't follow it. So when it comes to is there  
104 something else we can do when when someone who is sworn to uphold the law doesn't uphold the law  
105 sometimes you just have to use the law to make them do their job. There are council members with whom I've  
106 spoken there's.. It's no secret there are a lot of political influences around us and for whatever reason that  
107 seems to interfere with their ability to meet their obligation under the law. I've had some positive conversations  
108 with two members maybe they'll do something maybe they won't. It's a guarantee if they get notice that you  
109 have had it you're done and you really do intend to make them do what they're supposed to they have to do  
110 something and the most feasible thing for them to do of course is to just okay take care of it get it done that's  
111 my fault. But there's another part to this and that is in the appointment process if Council fails to provide three  
112 names to the mayor the mayor has the right to appoint someone. Nobody has done anything. There's  
113 discretionary choice to be made and there are ministerial actions to be performed and none of them have been  
114 done. I don't think Mr. Waters that institutionally this Board has never jumped the gun on anything or do

115 anything that is offensive or disrespectful or avoided conversation for the members but that doesn't get it done.  
116 And I don't think this would be something that you would be doing that way that you would do something out of  
117 the blue and all that they have to do is read their own code.

118 **Mr. Waters:** Just to be clear the words disrespectful and offensive were not words I used. They do not reflect  
119 my personal opinion in this. I just know that we have watched an escalation of efforts from one side to the next  
120 and I think that this will be seen as as an escalation of effort and I will go back to what I said is I'm to amend  
121 this motion that in addition to doing the things we have said we also can continue to take whatever steps we  
122 can which might include asking for a face-to-face meeting with a supportive council member.

123 **Ms. Pittinger:** One other concept to put in which seems to be the fulcrum of this situation you describe as an  
124 escalating hostility or as escalating that is your independence. You are independent. And the failure of the  
125 appointing authorities to provide you with the members that you require to meet your mandate under the city  
126 charter that's an interference with your ability to fulfill your mission. That is interference with your  
127 independence. That is the crux of the matter. That is the source of all the disputes that you are quietly referring  
128 to that happen at this table between City Council and the Board. Your independence is intended by the  
129 citizens of this City when they approved that referendum creating an independent board. Not to kowtow to  
130 Council or to kowtow to the Mayor. You have the awesome responsibility to respect and recognize what the  
131 people expect of you without regard to political interference and a taint to your independence. And you know  
132 that I am strident about that but I know that is the source of the problem. And it has been said so at this table.  
133 They qualify everything by saying you're not that independent. You are.

134 **Mr. Waters:** With all due respect I have made a motion to amend a motion.

135 **Dr. Darby:** But she would have to accept a friendly amendment to her motion.

136 **Ms. Roberts:**... and what I'm and I'm this is not dissenting from what you're saying I understand what you're  
137 saying. I just feel as if those efforts have been exhausted. I feel like face it we can speak to council members  
138 face-to-face individually but on a whole we need a uniform Council opinion and names submitted by a whole  
139 Council not individually. We can go separately Beth has already said which is our executive director has  
140 already said she spoken with several council members. We know ourselves that they are aware of the  
141 situation. I don't feel as if we would make any gain as our solicitor has said time is basically something that he  
142 is considering in this which is why we're going to go about the steps and I agree with that. We don't want to  
143 wait till too many more meetings. I feel like those things have been exhausted. I mean you can make a different



9/25/12: Excerpt of Board discussion/motion on writ of mandamus (recording start @ 7:56 end 33:42)

144 motion. I can withdraw my motion and make a decision but an addendum to the motion I made... I already feel  
145 those efforts have been exhausted. I don't feel like it would be effective to go back and try to see how many  
146 council members we can speak to separately. I feel like this is the course of action and the road that we're  
147 headed on so I mean that's my personal opinion. I imagine that everyone has a separate opinion and I would  
148 love to hear them but I you can make a different motion I can withdraw the motion I made but I'm not in  
149 agreeence (agreement) with that because I feel like those steps have been exhausted.

150 **Dr. Darby:** I call for the vote.

151 **Mr. Norman:** All in favor of the original motion

152 Ayes (3): Darby, Norman, Roberts

153 Nay (1): Waters

154 **Mr. Norman:** The ayes have it.

155

156 (End transcription of excerpt at 33:42)