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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Anthony W. Finnell
Executive Director

SUBJECT: Citizens' Police Review Board Bylaws

DATE: March 7, 2016

City Administrator Approval

Date:

4/28/16

RECOMMENDATION

Staff Recommends the City Council Adopt A Resolution To Approve The Citizens' Police Review Board Bylaws.

EXECUTIVE SUMMARY

The Citizens' Police Review Board (CPRB) approved a draft of Bylaws for the CPRB commissioners during the CPRB meeting on December 10, 2015. The purpose for the Bylaws is to supplement the rules and procedures which are already included within the CPRB governing legislation, Ordinance No. 12454 C. M. S. (Ordinance). The Bylaws will incorporate uniform requirements regarding the selection of members, and the general responsibilities of the CPRB as set forth in the Ordinance established by the City Council.

The CPRB reviewed the Ordinance and found that portions of sections 3, 4, and 6 needed clarification. The Bylaws are a means to provide such clarification, and for matters which the Ordinance does not address, the Bylaws then provide guidance for the CPRB to follow.

BACKGROUND / LEGISLATIVE HISTORY

The Citizens' Police Review Board was originally created by Ordinance No. 9916 C.M.S. on April 15, 1980 for the purpose of reviewing certain complaints of conduct by police officers, conducting fact-finding investigations of these complaints, and thereafter making advisory reports to the City Administrator of the facts of these complaints. Ordinance No. 12454 C.M.S. amended prior governing legislation of the CPRB on November 12, 2002. Council has to approve these Bylaws as listed in the Ordinance under Section 6. Rules and Procedures, subsection A. Adoption of Rules that "The Board shall, in consultation with the City Manager and the City Attorney, and with the approval of the City Council, establish rules and procedures, except as provided herein, for the conduct of its business."

Item: _____
Public Safety Committee
May 10, 2016

ANALYSIS AND POLICY ALTERNATIVES

The CPRB Bylaws are contained in ***Attachment A***.

Section 3 of the Ordinance addresses removal of Board members, Board member qualifications, and elections of officers. The Bylaws supplement section 3 with guidance on the process for removing Board members, includes additional Board member training requirements, outlines the duties of the Board Chair and Vice-chair.

Section 4 of the Ordinance addresses vacancies. The Bylaws supplement section 4 with guidance on the process for ensuring the vacancies are filled.

Section 6 of the Ordinance addresses rules and procedures, voting requirements and reports by the Board. The Bylaws supplement section 6 by providing specific direction to the Board on how to handle confidential documents and reports, voting procedures, and due dates for annual and semi-annual reports to be presented to the Board.

Several matters not addressed by the Ordinance are included in the Bylaws. These include:

- How to handle resignations from the Board
- Official statements by the Board
- Agenda format
- Proxy voting
- Public comments
- Conflicts of interest and Board member recusal
- General conduct of business
- Prohibiting advisory opinions of the Board
- Use of Robert's Rules of Order

All of this information is contained in ***Attachment B***.

FISCAL IMPACT

There are minimal costs associated with the report. Outreach Committee publication materials, flyers, brochures, and pamphlets are estimated to be around \$13,000.00 per year. These costs are already included with the outreach efforts conducted by the CPRB staff and will not create an additional expense. The other proposed standing committees (Bylaw and Rules and Transparency and Legislation) do not have any associated costs or staffing needs.

PUBLIC OUTREACH / INTEREST

A draft version of the CPRB Bylaws was first presented to the community and discussed during the July 25, 2015 meeting of the CPRB. The presentation and discussion of the bylaws draft was open to the public to comment and discuss. The CPRB held four additional meetings to complete the bylaws draft (August 19, 2015, September 23, 2015, October 14, 2015, and December 10, 2015). The presentations and discussions at each subsequent meeting were open to the public to comment and discuss.

COORDINATION

This report was reviewed by the Controller's Bureau and the Office of the City Attorney.

SUSTAINABLE OPPORTUNITIES

Economic: There are no identifiable economic opportunities associated with this report.

Environmental: There are no identifiable environmental opportunities associated with this report.

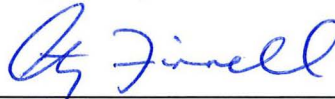
Social Equity: The Citizens' Police Review Board strives to provide the community with a public forum to voice its concerns on policy matters and individual cases alleging police misconduct, through a mechanism of independent, impartial, fair, and transparent civilian oversight.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends the City Council adopt a resolution to approve the Citizens' Police Review Board Bylaws.

For questions regarding this report, please contact Anthony W. Finnell, Executive Director, at afinnell@oaklandnet.com or (510) 238-7401.

Respectfully submitted,



Anthony W. Finnell
Executive Director, CPRB

Reviewed by:
Marti Paschal, Policy Analyst
CPRB

Prepared by:
Anthony W. Finnell, Executive Director
Citizens' Police Review Board (CPRB)

Attachments (1): CPRB Bylaws
(2): Table listing sections of Bylaws/Ordinance

BY-LAWS OF THE CITIZENS' POLICE REVIEW BOARD

CITY OF OAKLAND, CALIFORNIA

ARTICLE I – ESTABLISHING ORDINANCE

The Citizens' Police Review Board was established by the Ordinance for the purpose of reviewing certain complaints of conduct by police officers, conducting fact-finding investigations of these complaints, and thereafter making advisory reports to the City Manager of the facts of these complaints. The rules and procedures contained in these Bylaws supplement the rules and procedures set forth in the Ordinance. Accordingly, it is the duty of every Board member to be familiar with and abide by both the Ordinance and these Bylaws. To the extent these Bylaws are inconsistent with the Ordinance (which may be amended from time to time), the Ordinance shall control.

ARTICLE II – NAME

The Name of the Board shall be the **Citizens' Police Review Board**.

ARTICLE III – LOCATION

The location of the Board shall be the City of Oakland, California. The official mailing address of the Board shall be:

**CITIZENS' POLICE REVIEW BOARD
250 Frank H. Ogawa Plaza
6TH Floor, Suite 6302
Oakland, CA 94612**

All persons and other entities wishing to correspond with the Board for any reason, including the submittal to the Board of a civilian complaint against any officer of the Oakland Police Department, shall direct correspondence to the Board at its official mailing address.

ARTICLE IV – PURPOSE

It is the duty of the Board to investigate and review certain complaints regarding the conduct of Oakland police officers and park rangers and thereafter deliver in timely manner advisory reports to the City Administrator regarding the facts of and a recommended disposition of these complaints.

1 In addition, the Board may, consistent with the limitations set forth in section 6.C.4 of the Ordinance,
2 recommend policy changes to the Public Safety Committee with regards to matters within its
3 jurisdiction.

4
5 **ARTICLE V – MEMBERSHIP**

6 **Section 1. Membership of the Board.** The Board shall consist of twelve (12) members who
7 shall be Oakland residents who are at least eighteen (18) years of age, recommended by Council
8 members or appointed by the Mayor, and confirmed by the Council as provided by section 3(C)(1) of
9 Ordinance No. 12454 C.M.S. One (1) of the nine (9) regular members of the Board and one (1) of the
10 three (3) alternates must be under twenty-five (25) years of age at the time of appointment. The
11 members of the Board shall serve without compensation.
12

13 **Section 2. Terms of members.** Members shall be appointed to staggered terms, said terms
14 to commence upon the date of appointment, except that an appointment to fill a vacancy shall be for
15 the unexpired portion of the term only.

- 16 a. All appointments shall be for a period of two (2) years.
17
18 b. No person shall be appointed to serve more than two (2) consecutive terms as a
19 member of the Board.
20 c. In the event an appointment to fill a vacancy has not occurred by the conclusion of a
21 Board member's term, that member may continue to serve as a member of the Board
22 during the subsequent term in a holdover capacity for a period not to exceed one year,
23 to allow for the appointment of a Board member to serve the remainder of said
24 subsequent term.

25 **Section 3. Attendance at Board meetings.**

26 Members are expected to attend every Board meeting unless noticed in advance to the
27 Chairman and the Executive Director. In case of emergency, notification should be made as soon as
28 possible to the Chairman and the Executive Director. Attendance shall be recorded at each regularly

1 scheduled Board meeting and for every special Board meeting. The attendance record shall be
2 provided semi-annually to the Office of the Mayor for review.

3 **Section 4. Removal of Board members.**

4 Absence of any Board member from three (3) consecutive regular Board meetings or from
5 five (5) regular meetings in a calendar year shall constitute cause for removal from the Board. A
6 member may also be removed pursuant to Section 601 of the City Charter for, among other things, a
7 conviction of a felony or misdemeanor, misconduct, incompetence, or inattention to or inability to
8 perform duties.
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11 The Charter provides the procedure to remove a Board member. City Charter section 601
12 provides in pertinent part:

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14 “Members of boards and commissions shall be appointed by the Mayor subject to
15 confirmation by the affirmative vote of five members of the Council and may be removed for cause,
16 after hearing, by the affirmative vote of at least six members of the Council.”

17 The Board will discuss this matter should circumstances require the consideration of the
18 removal of a Board member. If the majority of the Board finds cause for removal, the Board Chair or
19 Vice-Chair will request that the Executive Director prepare a resolution and a report identifying the
20 requirement, citing the language in the Ordinance that states the requirement and providing
21 background regarding the date of appointment, the notice to the Board member, and the failure to
22 comply with the requirement. The procedure to remove a member for cause (e.g., failure to meet the
23 qualifications to serve on the CPRB) is to schedule a resolution at the next available Rules and
24 Legislation Committee meeting.
25

26 **Section 5. Board member training.**

- 27 a. Within nine (9) months of appointment, each Board member must complete the
28 following:

- i. Oakland Police Department Citizens' Police Academy
- ii. Oakland Police Department "ride-along" program
- b. Citizens' Police Review Board Policies and Procedures training
- c. Police policy and procedure, law, and public policy training as determined by the Executive Director.

Section 6. Resignations from the Board. Any member of the Board who wishes to resign shall submit his or her resignation in writing to the Mayor and the Board Chair.

Section 7. Filing of Board vacancies in timely manner. A vacancy on the Board will exist whenever a member is incapacitated, resigns, or is removed or whenever an appointee fails to be confirmed by the Council within thirty (30) days of recommendation. Upon creation of a vacancy on the Board, the Board shall give public notice of such vacancy in order to inform persons interested in becoming a member of the Board. Council members make recommendations to the Mayor, who will then make appointments to the Board which is then confirmed by the Council in order to facilitate satisfaction of the quorum requirements of the Board.

ARTICLE VI – OFFICERS

Section 1. Election of Officers. The Board shall annually elect from their membership a chairperson and vice-chairperson at the first regular meeting of the Board in February of each year. Nominations for the election of officers shall be made at the regular Board meeting immediately preceding the meeting at which elections are to take place. The term of the chairperson and vice-chairperson shall commence on the date of their election and shall end upon the date when their successors have been elected and qualified.

Section 2. Powers and duties of the Chairperson. The Chairperson shall serve in such capacity for a period of one (1) year, except that in the event of a vacancy, the duly elected member shall serve in that capacity for the remainder of the term. The Chairperson serves at the discretion of

1 the Board and can be removed from the capacity as Board Chair at any time with a motion from a
2 Board member, properly seconded and determined by a majority vote.

3 The Chairperson shall:

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- 5 a. Be the presiding officer at all regular and special meetings of the Board and shall be
6 authorized to call special meetings.
 - 7 b. Establish such ad hoc committees of the Board, not otherwise created by these By-Laws and
8 Rules, as may be necessary or desirable for the Board to conduct its business.
 - 9 c. Appoint the chair and members of all committees of the Board and specify the duties of such
10 committees except as such duties may be expressly set forth in these By-Laws and Rules or be
11 altered or modified by the Board. All such appointments shall continue at the Chairperson's
12 discretion, provided that a chair of a committee established by these By-Laws shall not be
13 removed by the Chairperson except upon a majority vote of the members of the Board. The
14 Board, by a majority vote of its members, may recommend to the Chairperson the name of a
15 member to be considered by the Chairperson for appointment as the chair or a member of a
16 committee.
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 - 18 d. Serve as an ex-officio member of all committees of the Board.
 - 19 e. Perform all duties incident to such office and such other duties as may be prescribed by these
20 By-Laws and Rules, or delegated to the Chairperson by the members from time to time.
 - 21 f. Decide on all points of order and procedure during the meetings, in consultation with Board
22 Counsel, and the Chairperson's decision shall be final unless overruled by a majority vote of
23 the members.
 - 24 g. Appoint a Parliamentarian to assist the Chairperson.
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1 h. Be the principal spokesperson on behalf of the Board and may designate another member of
2 the Board as a media liaison officer to assist the Chairperson with respect to media relations.

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4 **Section 3. Powers and duties of the Vice-Chairperson.** The Vice-Chairperson shall serve
5 in such capacity for a period of one (1) year, except in the event of a vacancy. In the absence of the
6 Chairperson, or the Chairperson's resignation, incapacity, disqualification, removal, or inability to
7 perform the duties of the office of the Chairperson, the Vice-Chairperson shall perform the powers
8 and duties of the Chairperson and, when as acting Chairperson, shall have all the powers and duties
9 and be subject to all the restrictions upon the Chairperson. The Board shall determine by a majority
10 vote if the Chairperson has demonstrated a continued refusal to fulfill the powers and duties of the
11 office. When the Vice-Chairperson succeeds to the office of Chairperson in the event of resignation,
12 death, disqualification, removal, or by a vote of the Board as authorized in this section, he or she shall
13 complete the term of the Chairperson. In the event the Vice-Chairperson notifies the Board in writing
14 that he or she is unwilling to accept the responsibilities of the Chairperson for any reason, then both
15 the office of Chairperson and Vice-Chairperson shall be deemed vacated and the Board shall proceed
16 to nominate and elect a Chairperson and Vice-Chairperson at a special meeting to be called by the
17 Executive Director as soon as practicable after the Vice-Chairperson provided the Board with such
18 written notification. The Board shall nominate and elect a new Chairperson and Vice-Chairperson to
19 serve when the special meeting is conducted.

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23 **ARTICLE VII – OFFICIAL STATEMENTS OF THE BOARD**

24 **Section 1. Official statements of the Board.** It is the intention of the Board to promote
25 full, active, and meaningful participation by the members of the Board in the undertaking of their
26 responsibilities as members. It is the further intention of the Board to encourage the exercise of
27 thoughtful discretion in order to curtail or minimize the potential for inconsistent public statements
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1 response thereto, care shall be taken by members to avoid discussions of non-agenda items. The
2 Chair shall be diligent in the enforcement of the provisions of this section so that meetings of the
3 Board shall be conducted in an orderly manner.

4 **Section 2. Calling of special meetings.** The Chair may call special meetings in his or her
5 discretion for substantial reasons warranting the convening thereof and shall also call such meeting
6 upon the written request of at least three (3) members of the Board. A notice to the Board
7 members stating the place, date, hour, and agenda (as determined by the Chair in the furtherance of
8 his or her exercise of discretion, or to cover subject matter specified in the request made by the
9 herein above specified individuals) shall be delivered either verbally or in writing, as practicable, to
10 each member at least twenty-four (24) hours prior to the special meeting. Where time permits and
11 practicable conditions allow, the Chair shall attempt to disseminate a brief written statement of the
12 matters to be discussed at any such meeting.

13 **Section 3. Public notice of Board meetings.** The Board shall give public notice of
14 regular monthly meetings and special meetings. The meeting notification requirements of the
15 Open Meetings Law of the State of California shall apply to the regular monthly meetings, special
16 meetings, and emergency meetings.

17 **Section 4. Agenda form of the Board.** The regular order of business at regular,
18 special, and/or emergency meetings shall be as follows in this standard format:

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23 Regular Monthly Meetings

- 24 a. Call to order
25 b. Roll call
26 c. Acceptance of minutes of last regular meeting of Board
27 d. Changes to agenda
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- e. Public Forum
- f. Presentations
- g. Board member announcements
- h. Report from the Chair
- i. Director's report
- j. Committee reports
- k. Old Business
- l. New Business
- m. Closed Session
 - i. Review of complaints
 - ii. Pending Cases
 - iii. Old Business
 - iv. New Business
- n. Resume Open Session
- o. Adjournment

Special Meetings

- a. Call to Order.
- b. Reading of the notice of the meeting and roll call
- c. Public comment
- d. Transaction of the business for which the meeting was called and recommendations.
- e. Call of Closed Session if warranted.
- f. Adjournment

1 Such order may be varied at the discretion of the Board or the Chair.

2 **Section 5. Voting by proxy prohibited.** There shall be no vote by proxy at any meeting
3 of the Board.

4 **Section 6. Public comment allowed.** The public is welcomed to address the Board
5 regarding items that do not appear on the agenda but that are within the subject matter jurisdiction
6 of the Board. Time shall be made available for open public comment at all meetings of the Board,
7 exclusive of those portions of a meeting conducted in Closed Session. The Chair may establish a
8 reasonable time limit for public comment based upon the scope of the agenda established for the
9 particular meeting, not to exceed three (3) minutes per person. The Chair, or the Board, upon
10 motion approved by a majority of its members, may provide for an extension of the time period for
11 a period as specified in the motion. Public comment related to an agenda item shall be limited to
12 the substance of the agenda item.
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15 **Section 7. Making of motions.** Motions may be made or seconded by any member of
16 the Board, including the Chair.

17 **Section 8. Confidentiality of privileged information.** Members of the Board shall
18 maintain the confidentiality of all confidential or privileged information received in the course
19 of their service on the Board, in accordance with the provisions of State and local law. Members
20 shall return all confidential investigative reports or packets to CPRB staff for proper destruction.
21 Members shall maintain a thorough knowledge of the legal protection accorded by State and
22 local law to the privacy of police records, including the penalties for the violations of laws
23 which guarantee the security of such records and the individual's rights of privacy and
24 confidentiality.
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27 Except as expressly authorized by the Chair or the Board in the furtherance of members'
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1 duties, members of the Board shall make diligent efforts to avoid ex parte discussion of any matter
2 that is or may come before the Board with any person interested in such matter. A member who
3 has had an unauthorized communication concerning an agenda item outside of a public meeting
4 with an interested party, including but not limited to a complainant, an officer or other employee of
5 the Department who is a subject of a complaint, a witness to the events giving rise to such
6 complaint, any person representing or purporting to represent the interests of any such person, or a
7 relative of any such complainant, officer or employee of the Department or witness, shall promptly
8 notify the Chair of the contact, and furnish to the Chair the name of such interested party, the
9 nature of the interest, and the specifics of the communication, including copies of any
10 correspondence with such party and a written synopsis of any portion of the communication that
11 was verbal.
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14 **Section 9. Recommendation for removal of a member for violation of provisions**
15 **relating to confidential and private information.** The Board, by a vote of at least six members,
16 may recommend to the City Council the removal of a member from the Board for cause, as
17 outlined in Article IV, Section 4 of the Bylaws, based upon a violation of the provisions of Section
18 8 of this article or, any provision of the local ordinance and state law that guarantees the security of
19 confidential records or the rights of privacy for individuals.
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21 **Section 10. Conflicts of interest; member recusal.** A Board member shall recuse him or
22 herself from hearing any case in which:

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- 24 a. She/he feels that she/he cannot be fair and impartial;
 - 25 b. It is likely that she/he will be perceived as not being fair and impartial;
 - 26 c. A party (Complainant or the Subject Officer) or any witness whose credibility is an
27 issue, is
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- 1 i. A relative, by blood or marriage through the third degree; or
- 2 ii. Someone, regarding who the Board member, through prior experience with the
- 3 witness or party in any capacity other than through service as a Board member,
- 4 has formed an opinion about whether or not that person is credible.
- 5
- 6 d. In every case in which the Complainant, Subject Officer or any witness is known to a
- 7 Board member, the Board member shall disclose at the time of the hearing, prior to the
- 8 commencement of the hearing, the nature and extent of the Board member's
- 9 relationship to the Complainant, Subject Officer or the witness.
- 10
- 11 e. Similarly, at a point prior to the close of evidence, Board members shall disclose
- 12 information which could influence their decision if such information is other than that
- 13 which is adduced at the hearing (or is commonly known) and the parties shall
- 14 be given an opportunity to review such information.
- 15
- 16 f. After disclosure of a Board member's affiliation with the Complainant, Subject
- 17 Officer or witness, either party or any member of the Board may proffer voir dire
- 18 questions, limited to the bias and impartiality, to the Legal Advisor. If the questions
- 19 are determined by the Legal Advisor to be relevant and material to a determination of
- 20 bias or impartiality, the Legal Advisor will elicit response from the Board member in
- 21 question.
- 22
- 23 g. At the conclusion of the voir dire, either party or any Board member may object to the
- 24 Board member in question hearing the case.
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- 26 h. The Board member shall be recused by an affirmative vote of a majority of the
- 27 members of the Board if the record establishes a
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- i. Reasonable likelihood that an ordinarily prudent person in the same

1 relationship to the party or witness would be biased for or against the
2 Complainant or the Subject Officer, or;

- 3 ii. Reasonable likelihood that an ordinarily prudent person would, under the
4 circumstances of familiarity with a party or witness, give greater or lesser
5 weight to the testimony of any witness than they would if the witness were a
6 stranger.
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8 **Section 11. Voting.** Five members of the Board shall constitute a quorum. The Board shall
9 take no action at a meeting other than to recess or adjourn in the absence of a quorum. Except as
10 otherwise provided herein, the affirmative vote of no fewer than the majority of members present , is
11 required for adoption of any action or motion, other than disciplinary findings. An affirmative vote
12 of no fewer than five members is required for adoption of any disciplinary finding.. Upon request of
13 any member, voting on a motion or resolution shall be by roll call and will be recorded by yeas and
14 nays. Every member of the Board who is present, including the Chairperson, is required to cast a
15 vote upon each motion. A member who abstains shall state the reason for abstention.
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17 **Section 12. Roberts Rules of Order.** The rules of the current edition of Roberts Rules of
18 Order Newly Revised shall govern the Board in all cases to which they are applicable and in which
19 they are not inconsistent with these By-Laws and any special rules or order the Board may adopt.
20 The application of Roberts Rules of Order may be suspended by the Chair for all or any part of a
21 Board meeting unless suspension is objected to by a majority of the members of the Board.
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23 **ARTICLE IX – COMMITTEES**

24 **Section 1. Standing Committees.** The standing committees of the Board shall be:

- 25 a. By-laws and Rules
26
27 b. Community Outreach
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1 c. Transparency and Legislation

2 **Section 2. Duties of Standing Committees.** Each of the standing committees shall
3 perform the functions specifically delegated to such committee by the applicable section of this
4 Article pertaining thereto or the resolution creating such committee. In addition, each standing
5 committee shall perform such other functions as the Chair shall assign.
6

7 **Section 3. Standing Committee on By-laws and Rules.** The standing committee on By-
8 laws and Rules shall be charged with periodically reviewing the effectiveness of these By-laws and
9 Rules as such relate to advancing the efficient conduct of Board business. The committee shall
10 make an annual report to the Board at its first December regular monthly meeting containing any
11 recommendations for amendments, which shall be considered for adoption by the Board at its first
12 January meeting.
13

14 **Section 4. Standing Committee on Community Outreach.** The standing committee on
15 Community Outreach, working with the Executive Director, shall be charged with developing a
16 broad program of outreach to all sectors of the City populace for the purpose of informing the
17 diverse communities of the City of Oakland with respect to the mission of the Board and its duties,
18 functions, powers and responsibilities under the Ordinance. The committee shall endeavor to design
19 a program that will improve the relationship between the diverse communities of the City and the
20 OPD taking into account to the extent the committee deems necessary, desirable or appropriate, age,
21 race, ethnicity, religious, philosophical or political persuasion, gender, sexual orientation, and
22 economic status. The program shall maximize the dissemination of information to the public
23 through pamphlets, media press releases, public appearances, or other methods reasonably
24 calculated to heighten public awareness of the role of the Board in achieving its goals. The
25 committee shall issue monthly reports to the Board with respect to its outreach program and its
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1 **Section 2. Old Business.** Under the agenda item of old business, the Board shall consider
2 any unfinished business from previous meetings and members may seek such clarifications of
3 actions taken by the Board at a previous meeting as the members shall deem helpful.
4

5 **Section 3. New Business.** Under the agenda item of new business, the Board shall
6 consider any matters noticed by the Chair under this item as set forth in the mailed agenda as well
7 as any item of new business may be removed from the agenda at that regular meeting by majority
8 vote of the members.
9

10 **Section 4. Miscellaneous.** The Board shall adopt such procedures as are legal and
11 necessary to regulate the conduct of executive sessions.

12 **Section 5. Conclusion of Closed Session.** At the conclusion of its business in any closed
13 session, the Board shall recess and return to the regular order of the agenda.
14

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16 **ARTICLE XI – PUBLIC ACCESS TO BOARD RECORDS AND CONDUCT OF**
17 **OPEN MEETINGS**

18 **Board will comply with the laws of the State of California, and Federal law.**

19 **ARTICLE XII – MISCELLANEOUS PROVISIONS**

20 **Section 1. Annual report of the Board.** No less than twice each year the Board
21 shall issue a detailed statistical report to the Public Safety Committee regarding complaints
22 filed with the Board, the processing of these complaints and their dispositions. The annual
23 report for the previous year shall be presented to the Board for approval no later than the first
24 meeting in April; the semi-annual report for the current year shall be presented to the Board
25 for approval no later than the first meeting of October of the same year.
26

27 **Section 2. Complaints of Misconduct.** It is the policy of the Board to encourage those
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1 who have experienced misconduct by a police officer including but not limited to an alleged use of
2 excessive force or a violation of any individual's rights through the action of a police officer, to
3 submit such complaints in writing to the Board or to the Department. Violation of a person's civil
4 rights shall include complaints pertaining to sexual orientation. Complaints alleging excess use of
5 force and violation of civil rights shall be given highest priority of consideration by the Board. The
6 Board will make every effort to ensure that no adverse consequences will result to any person or
7 witness as a result of submittal or filing of a complaint

9 **Section 3. Advisory opinions of the Board prohibited.** Neither the Board nor any member
10 shall render any advisory opinion to any person or persons with respect to the preparation of a citizen
11 complaint or to any police officer who is the subject of or who may become the subject of a
12 complaint investigation. This does not preclude Board members from providing information to
13 individuals on complaint filing procedures. All Board members shall remain impartial and unbiased
14 in the performance of their duties while serving on the CPRB. Comments, made both in open
15 sessions and during closed sessions of Board hearings/meetings, should remain neutral and not in any
16 way show bias.
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19 End of Bylaws
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Attachment B

Section of Ordinance

Section 3, subsection F - Removal of Board Members
A member may be removed pursuant to Section 601 of the City Charter for, among other things, a conviction of a felony, misconduct, incompetence, inattention to or inability to perform duties.

Section 3, subsection B3 - Board Member Qualifications
This section requires board members to attend OPD's Citizens' Police Academy and participate in OPD's "ride'along" program within 9 months of becoming a board member.

Not addressed by the Ordinance

Section 4, Vacancies
The Ordinance identifies what constitutes a vacancy on the board.

Section 3, subsection E - Elections of Officers, Meetings
The Ordinance specifies when a chairperson and vice chairperson are to be elected, as well as when their term as chairperson and vice chairperson will end.

CPRB Bylaws

Article IV, Section 4-Removal of Board Members
This section explains the process the Board and the Executive Director shall take to remove a Board Member.

Article IV, Section 5, subsections b and c - Board Member Training
In addition to the training requirements as outlined in the Ordinance, this section adds additional training requirements to include CPRB policies, procedures, law and public policy training as set forth by the Executive Director.

Article IV, Section 6 - Resignations from the Board
This section requires the member to submit his or her resignation in writing to the Mayor and the Board Chair.

Article IV, Section 7 - Filling of Board vacancies in a timely manner
This section identifies the steps to be taken by the Board to make sure the vacancy is filled in a timely manner.

Article V, Sections 1, 2, and 3 - Officers, Election of Officers, et al
This section identifies the duties of the chairperson and the vice-chairperson. It also outlines how the board may remove the chairperson or the vice-chairperson from their respective offices should they become unable to carry out the duties of their elected offices.

Section of Ordinance

Not addressed by the Ordinance

Not addressed by the Ordinance

Not addressed by the Ordinance

Section 6, subsection F4 - Pre-hearing processing et al
The Ordinance states that confidential information provided to the CRPB during the course of an investigation or hearing shall not be released to the public or in open session.

Not addressed by the Ordinance

Not addressed by the Ordinance

CPRB Bylaws

Article VI - Official Statements by the Board
This section provides guidance on when official statements would be provided by the Board and by whom those statements will be made. This section does not prohibit any one from expressing his or her personal opinion or perspectives on a matter.

Article VII, Section 5 - Voting by Proxy prohibited
This section states there shall be no vote by proxy at any meeting of the Board.

Article VII, Section 6 - Public Comment Allowed
This section provides guidance to insure the public is given sufficient time for comments during the open session portion of the board meetings. It states that the public may comment on items not on the agenda that are within the subject matter jurisdiction of the Board.

Article VII, Section 8 - Confidentiality of privileged information
This section provides guidance to the Board members on how to handle confidential information and reports and what they are to do if protocol is not followed.

Article VII, Section 9 - Removal of a member for violating confidentiality
This section provides guidance on what Board members may do to remove a fellow Board member found to be in violation of the confidentiality requirement as outlined in section 8 of this article.

Article VII, Section 10 - Conflicts of Interest, member recusal
This section outlines instances when a Board member shall recuse themselves from the hearing process.

Section of Ordinance

CPRB Bylaws

Section 6, subsection B - Voting Requirements
This section states the number of affirmative votes needed to adopt a motion or resolution with regards to recommendations for findings or discipline against an officer for findings of unfounded or exonerated.

Article VII, Section 11 - Voting
This section states each member present shall cast a vote upon each motion, or state their reason for abstaining.

Not addressed by the Ordinance

Article VII, Section 12, Roberts Rules of Order
This section states the rules of the current edition of Robert's Rules of Order Newly Revised shall govern the Board in all cases where applicable. This protocol may also be suspended by the Chair for all or part of a Board meeting if there is no objection by the majority of Board members present.

Section 6, subsection D - Board Committees
This section states the City Council must approve the creation of any standing committee of the Board. Costs related to each standing committee is included in the agenda report.

Article VIII, Sections 1-6 - Committees
These sections outline the roles and responsibilities of three standing committees: 1-Bylaws and Rules; 2- Community Outreach; 3- Transparency and Legislation.

Not address by the Ordinance

Article IX, Sections 1-5 - Conduct of Business
These sections provide guidance to the Board members on what information is expected and how to conduct the business of the Board during meetings.

Section 6, subsection C - Reports by the Board
This section states that the CPRB shall present a detailed statistical report to the Public Safety Committee twice a year. The CPRB may also submit a quarterly report of policy recommendations with regards to matters within its jurisdiction.

Article XI, Section 1 - Miscellaneous Provisions-Annual Report
This section provides guidance for a due date for the annual and semi-annual reports to be presented to the Board for approval each year.

Attachment B

Section of Ordinance

Not addressed by the Ordinance

CPRB Bylaws

Article XI, Section 2 - Complaints of Misconduct
This section prioritizes complaints alleging excess use of force and violation of civil rights.

Not addressed by the Ordinance

Article XI, Section 3 - Advisory opinions of the Board prohibited
This section addresses the need for Board members to remain impartial and unbiased in the performance of their duties. The Board members are permitted to provide information to individuals regarding complaint filing procedures; they just are prohibited from assisting in the preparation of complaint forms, documentation, and testimony.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

~~DRAFT~~
City Attorney

RESOLUTION No. _____ C.M.S.

2016 APR 28 PM 6:32

Introduced by Councilmember _____

A RESOLUTION APPROVING THE CITIZENS' POLICE REVIEW BOARD BYLAWS

WHEREAS, The Oakland City Council established the Citizens' Police Review Board on April 15, 1980, to review certain complaints of misconduct by police officers or park rangers, conduct fact-finding investigations, and make advisory reports to the City Administrator; and

WHEREAS, On July 30, 1996, the City Council expanded the Board's original jurisdiction to include complaints involving: (1) the excessive use of force; or (2) communication of bias based upon an individual's legally protected status (race, gender, national origin, religion, sexual orientation or disability); and

WHEREAS, the City Council also granted the Board supplemental jurisdiction over other non-force conduct, subpoena power over police officers and park rangers and authorization to mediate final and binding resolution of complaints; and

WHEREAS, on July 30, 2002, the City Council granted the Board original jurisdiction over all complaints filed against Oakland police officers or park rangers and expanded the Board's size from nine members to twelve members, with three of the nine members to serve as alternates; and

WHEREAS, the City Council granted the Board the option of holding evidentiary hearings using three-member panels and permitted Board members to review confidential records from the Oakland Police Department in closed session; and

WHEREAS, the CPRB developed bylaws, following an analysis CPRB's enabling Ordinance No. 12454 C.M.S and determined there were many areas in which additional governance was necessary for the CPRB to conduct its business sufficiently; and

WHEREAS, a draft version of the CPRB bylaws was first presented to the community and discussed during the July 25, 2015 meeting of the CPRB; and

WHEREAS, the CPRB held four additional meetings to complete the bylaws draft on August 19, 2015, September 23, 2015, October 14, 2015, and December 10, 2015; and

WHEREAS, the presentations and discussions at each subsequent meeting were open to the public to comment and discuss; and

WHEREAS, at the CPRB meeting held on Thursday, December 10, 2015, the Board decided to adopt the bylaws, therefore be it

RESOLVED, the City Council hereby approves the Citizens' Police Review Board bylaws, with the understanding that to the extent these bylaws are inconsistent with CPRB's enabling Ordinance No. 12454 C.M.S. (which may be amended from time to time), the Ordinance shall control.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California