South Bend Community Police Review Board Meeting Minutes

Meeting Call to Order: May 15, 2025, at 6:07 pm

Roll Call Attendance: by Secretary Williams

Kelly Johnson-Present
Donna McCmahn-Present
Komonique Thomas (Vice President)-Present
Cheryl Ashe-Present
LeElla Webster-Present
Dr. Joseph Adams (Chairman)-Present
Sherria Williams (Secretary)-Present

We have a Quorum of 7 present, and the last meeting minutes were approved on May 1st.

Any pressing concerns since the last meeting? The chair recognizes Donna.

Donna: I believe our voting should be limited to board members only, especially when the results are published publicly. I fear potential retaliation. We typically submit our vote counts (yes or no) to the secretary, and I'm concerned that disclosing individual votes may expose members to harassment. While I understand that some city offices conduct open voting, corporations typically prioritize security and confidentiality. No one should be singled out or publicly identified.

Cheryl: I believe we need to consult our attorney to determine whether the law requires us to vote publicly. This seems to be a key issue. Can he clarify whether we're permitted to conduct a secret ballot, or if public voting is legally mandated?

President Adams: This matter will be referred to our attorney once it is formally added to the agenda. By a show of hands, who supports Cheryl's concern? I'm open to a motion to include this topic under New Business, specifically, a motion to discuss incorporating ballot voting procedures into our bylaws. Let's begin with a motion, followed by discussion. A motion to proceed with voting has been made by Joseph and seconded by Luella. There is also a request to amend the agenda item currently listed under New Business to move it up before voting on any new issues. Council, let's clarify: what exactly are we voting on?

Council: You are voting to include this item in the agenda between sections items 2 and 3 for discussion, and item 3 is the director's report. This vote does *not* alter your existing voting procedures. You are voting to allow yourselves as a board to discuss this right now.

President: A motion has been made and seconded. All those in favor, please raise your hand. All those opposed, raise your hand. The vote is unanimous in favor. We'll now proceed to the discussion, beginning with member Cheryl. Member Cheryl, I'll yield you time.

Cheryl: I believe we should consult the attorney immediately to determine, with the council's guidance, whether a secret vote is permissible.

President Adams: The Chair defers to our attorney.

Council Masters: No, a secret vote is not permitted. As a public body conducting public business, we are bound by the Open Door Law, which requires that any final action be taken publicly through a public vote. When you mention a "secret vote," I believe you're referring to

something different from than I interpret as a vote conducted outside public view, which is not allowed.

Regarding voting procedures, if a member is participating remotely, a roll call vote is required. I do not recommend altering tonight's process. Instead, I suggest we adhere to the procedure used on May 1st, where votes were cast by name. The key point is that voting must be public. As for the specific method of voting, I'd prefer to research that further before making a definitive recommendation. I advise against changing tonight's procedure and am willing to look into the matter more thoroughly for future reference.

President Adams: The Chair comes with a lot of responsibility, and you all elected me to be your chair, and you trust that I will carry out those duties. In consideration, your request and the environment I go against the advice of counsel and tonight's votes will be by ballot.

Cheryl: I'd like to formally state my disagreement. I believe we should follow the Council's recommendation and conduct the vote by roll call, as we did previously.

President Adams: Thank you for that, so we will be by ballot. Member Secretary, are the ballots prepared? We will ask our Council to be our clerk, and we will follow Robert's Rules of Order when the time comes.

Luella: When we were appointed to this board, it was publicly announced across South Bend. If there is an act of retaliation, it means any one of us could be targeted at any time. Still, I believe in standing firm; I support continuing with the ballot process.

Cheryl: Has anyone received or heard any negative feedback regarding the board?

President Adams: Are there any valid grounds for the concerns that have been raised? I encourage everyone to set those concerns aside for now; we have a responsibility to fulfill. If there are no objections, we'll conclude this portion and proceed to the next item. I will yield some time to the Director for item number 3.

Reconsideration of Case without Final Disposition

Director King: We currently have five active cases. One has already been submitted to the Police Department, and I'm in the process of reviewing all relevant materials, including video footage and the police report. Another case has just entered the exploratory phase here in the office. I'm hopeful that once I've gathered sufficient information, it can also be forwarded to the Police Department for their concurrent investigation.

One of the cases involves a substantial amount of video, approximately ten hours in total. I've reviewed about four hours so far, and it's a considerable undertaking. With that, I yield the floor.

President Adams: I'm not accepting your yield just yet; we still have cases to address. Based on the additional information you provided, would you classify that under item 4 or item 5?

Director King: In a way, it pertains to both items 4 and 5.

President Adams: Understood. Then I'll consider your yield as the conclusion of item 3. Shall we now proceed to item 4? Let me know when you are ending, so you can transition right into five.

Director King: As outlined in section four of the agenda, we're currently handling an ongoing investigation. As I mentioned earlier, there's a substantial amount of video footage that still needs to be reviewed. The Police Department has conducted a thorough investigation, and I'm in the process of examining their findings, including the police report and all related materials. I also plan to follow up with the complainant and do an additional interview. Agenda item number 4 pertains to the 2025 cases. With that, I yield back to the President.

President Adams: Transition into five.

Director King: I respectfully ask the board to reconsider cases 1019 and 1022, as no final decision was reached. I've since returned to the Police Department to gather additional information, which I will present to you this evening. Should you have any questions regarding the details I provide, I'll be available to address them.

Director King: Case 1019 includes new information. The complaint was filed on September 24 and involved the South Bend Police Department. The outcome was classified as "unfounded." While this term is not currently included in our list of possible outcomes, it is used by the Police Department and aligns with several of the categories we do recognize. Therefore, I recommend that the board consider adding "unfounded" to our official list of outcomes to ensure consistency with the Police Department's determinations.

Based on the evidence, I also recommend that the outcome for this case be recorded as "unfounded," as the officer's response was appropriate. Although the board voted on this case on May 1, no final disposition was reached. Director King presents a summary statement of the evidence gathered, including observations from the video footage review and the witness statement.

Council Masters: I'd like to begin by addressing the voting procedure. According to the Open Door Law, Indiana Code 5-14-1.5-3(b), a secret ballot vote is prohibited during public meetings. The Indiana Court of Appeals decision in *Evansville Courier v. Willner* (1990) dealt with a similar voting method and concluded that it did not constitute a secret ballot only because each voting member signed their name on the document, and those names, along with their votes, were recorded in the meeting minutes.

It's important to understand that if we proceed with a written ballot, each member's name and vote must still be made public and documented in the official record. In that sense, it's no more private than a roll call vote, which we've consistently used.

Now, regarding complaint CRB 1019: this item was previously brought to a vote on May 1, but no final decision was reached. Under certain conditions, we may reconsider a matter, specifically, if new information has emerged since the initial vote. We must also be mindful of the 60-day deadline from the date the complaint was referred to us.

If the board wishes to reconsider CRB 1019, we should first ask Pastor King what new or additional evidence has been obtained that was not available during our initial review. A motion to reconsider requires five affirmative votes. Given the circumstances, I strongly recommend using the roll call method, as any alternative, such as a written ballot, would still require each vote to be publicly recorded and filed with the meeting minutes.

Therefore, I suggest our first order of business be a vote to reconsider. If that motion passes with five votes, we can then proceed to review and present the new findings.

President Adams: Council, just to clarify, is the requirement still five votes to approve a motion for reconsideration?

Council Masters: Dr. Adams, it would still fall under Section 14B of the ordinance. Five members must vote in favor of any item before any action or disposition can be taken. This is an action item that requires five votes according to section 14B of the ordinance.

President Adams: The second question is, shouldn't the question of whether new information is presented be answered first, since this is the justification that we use for reconsidering something?

Council Masters: I don't disagree, but I think that may be best if that came from Pastor King. Pastor King can explain to the board what is available now for consideration that was not available when the matter was first considered, and then the Members can make a fully informed vote.

Director King: Yes, the updated information clarifies that the individuals involved are an uncle and his nephew, one is a juvenile, the other an adult. I'm also sharing the current status of the case with the Saint Joseph County Prosecutor's Office. This new context should give you a clearer understanding of the situation. If anyone has questions, I have additional details I'm happy to provide.

President Adams: I'd like to remind everyone that a vote to reconsider does not reflect agreement or disagreement with the findings. It simply allows us to revisit the matter, as we did not reach the required five-vote disposition previously. With that in mind, we will now proceed with a roll call vote on the motion to reconsider.

Roll Call Vote for Reconsideration: The motion passed unanimously with a 7–0 vote in favor of reconsideration.

Cheryl: What was the person who made the complaint leave out?

Director King: The complainant wanted to be right about not escalating the situation. I want to stick close to facts in speculation; I would be pushing the boundaries.

President Adams: Do you all feel like we have enough information to change our prior disposition, or do you think it will be the same? I guess I'm not actually looking for any words, just some type of head expression. Do you feel like we have enough information to change our disposition, or not really?

Council Master: As a point of order, this matter will be administratively closed, as the board was unable to reach a final disposition during the initial vote and subsequent reconsideration. Based on the current discussion, there appears to be no intent to conduct a revote. Given the 60-day deadline, this complaint is now subject to formal administrative closure, pending the board's concurrence.

Director King: So, when you voted to reopen this and to reconsider it we don't have a formal protocol. If you have to vote, but when you reopen it, it probably would make sense to do the voting anyway. Now, it is totally up to you and the board to move in that direction, but it is something to consider.

President Adams: Without objection, we will move forward on the agenda. I hear no objections. The floor belongs to you, director, for the next case.

Director King: CPRB 1022: This was a use-of-force and property handling case. The complaint was from October of 2024, the location

was South Bend, IN, and the South Bend Police Department outcome was exonerated. The initial CPR recommendation was exonerated. However, I revised that recommendation after reviewing the case more deeply. Not sustained based on evidence regarding the parking violation. This didn't reach a final disposition in the first voting. The original allegation summary of the complainant involved allegations of excessive force during a vehicle impoundment, inadequate and also inadequate medical response.

Supplemental investigation findings the video footage revealed that the complainant reentered the vehicle after being informed it would be towed without officer approval. The officer restrained the complainant physically, but medical care was provided after learning of potential seizure conditions. Bodycam footage showed that the officer adjusted the complaint position after being aware of the medical condition. There are two different parking signs.

This area is known to have issues, particularly for shooting, congested where emergency vehicles can not get down the street. There is a lot of different issues going on around this establishment and in this specific area. The officer was doing some proactive policing, knowing the surrounding area and what had happened in the past, but the sign clearly says 6p-6a Friday-Saturday. Director King presented a summary statement, noting that no use of force was observed. The video footage showed that medical aid was offered, but the complainant declined treatment. As part of King's investigation, he later went to the scene during late-night hours to observe the activity firsthand.

Reconsideration of this case:
Chrey made the motion, which was seconded by Joseph. A roll call vote was conducted. Five members voted in favor of reconsideration: Cheryl, Danna, Joseph, Luella, and Kelly, while two members, Sherria and Konminique, voted against.

Cheryl, LuElla, and Donna posed several questions to Director King concerning the incident, the complainant, the sign, personal property, and the towing procedures. Director King responded thoroughly, providing detailed answers grounded in the observations he made from the video footage.

President Adams: Director, you have made some critical assumptions that we need to break through. You mentioned stuff like when an officer says something and takes control over a situation, that just becomes the situation. According to what law? According to what ruling, I remind you that when speaking to this board, we need to have these cited clearly, so that we can report back to our bosses. These situations and where they are cited.

Director King: It is cited in the case; if you look at the case, there is information on the back about what a legal tow how it can transpire. There is Indiana Code for all of that; it is up to you all to read that and make a determination.

President Adams: We shall deliberate, Member Secretary. Do you have the ballots ready? Let me explain to you all how this works.

Council Master: For the record, any written ballot used during this meeting must be included with the official minutes and read aloud into the record. I strongly encourage the board to consider a roll call vote, as it offers a more straightforward and transparent method of voting in

compliance with the Open Door Law. If a written ballot is used, each member's vote must be publicly disclosed, their name associated with the vote, and the ballot preserved as part of the public record. Given these requirements, I once again recommend that the board proceed with a roll call vote.

Kominque: For clarification, are you stating that, according to the law you referenced, each vote must be recorded with the individual board member's name attached? If so, then the document currently before us, which simply notes the tally as three in favor, two opposed, and one abstention, without identifying the voters, would not meet the legal requirements for public record. Is that correct?

Council Masters: Pastor King is providing a summary of the vote that took place publicly two weeks ago, during which each member cast their vote via roll call. While his summary is informative, it does not constitute the official record. The official record was established through the roll call vote itself.

To address your broader question, based on the case law I reviewed during this meeting, the members of that particular board signed their names alongside their votes. Therefore, when a vote is conducted in writing, it must include each member's name and corresponding vote. This information must be read into the record during the meeting, and the written instrument must be preserved with the official minutes.

Given these requirements, I continue to believe that a roll call vote is a more efficient and transparent method.

President Adams: As Chair, I take this decision with utmost seriousness, and it shall stand as rendered. Following the vote, the Teller, who in this case will be our attorney, will present the full vote count to the membership. However, it is important to note that the Teller does not declare the outcome. That responsibility lies with the

Presiding Officer, who will read the report to the members and formally announce the result.

This procedure aligns with *Robert's Rules of Order* regarding the conduct of ballot voting. Furthermore, the complete Teller's report must be entered into the official minutes of the meeting. It is important to distinguish between the full written report and the summary that is read aloud during the proceedings.

Cheryl: Presents a question and accompanying statement to the Chair, referencing Indiana State law and its precedence over *Robert's Rules of Order* in governing procedural matters.

President Adams: I have carefully considered all guidance provided by our legal counsel, as well as the relevant rules and regulations that have been cited. I have also taken into account the concerns expressed by members of this body. I am confident that, before our next meeting, our attorney will confirm that we are in compliance. Should that not be the case, we will still remain within the 60-day timeframe.

With that said, it is important to note the distinction between the Teller's report presented during this meeting and the version that will be formally included in the meeting minutes. Accordingly, each member must sign their name on the ballot. The question before you is: Do you agree or disagree with the conclusion reached by the South Bend Police Department regarding complaint number CPRB1022? Please place your completed ballot in the box currently secured by our attorney. You will have 10 minutes to do so.

Council Master: Let me say this, Chair, I fundamentally don't consider this an appropriate method of public business; however, you don't have a five majority decision. I find three abstentions and part of a signature illegible, which means we have no record of that vote that

can be made public. I would recommend that the votes be ratified by roll call. If you accept them as they are, you still have no majority opinion to proceed with action. Because I observed four disagreements and three abstentions.

Again, I'd recommend very strongly that we read these into the record now or vote by roll call, because even if these are kept and these must be kept new as part of the record of this meeting. They are factually not compliant with the open door law, and my strong preference would be to read these votes now; otherwise, I must decline to participate in what I think is out of compliance with the open door law.

Those are my opinions; in the end, it may not matter to take affirmative action on the matter anyway, so the matter would essentially result in an administrative closure. Yet I do not consider this a valid vote, and I am inclined to read these now into the record unless you take them as a roll call vote.

President Adams: I do agree, if there are six legible names, then we know who the seventh one is. With that being said, the totals have been read, and we don't have enough. We are now moving on to item 6.

Council Masters: Chair, point of order, please. I must respectfully assert that this matter cannot be closed at this time. Either the vote conducted is facially invalid and noncompliant with the Open Door Law, or the ballots must now be read into the record. You cannot conclude this agenda item while the vote remains unresolved, as the procedure followed does not constitute a valid vote under the requirements of the Open Door Law.

I do not wish to participate in the vote under these circumstances, except to acknowledge what I have reviewed. Upon facial

examination, the ballots appear to be non-compliant with the Open Door Law. However, unless those votes are formally ratified through a roll call or read into the record, the vote remains void.

President Adams: The Chair has heard you, Counsel. Item six Director.

Director King: Although I do not agree with the previous vote and I'm in alignment with the stance of Indiana laws concerning that vote, I will move on to item six, community engagement and transparency.

Community Engagement and Transparency

Director King: I would like to propose that the board consider forming a subcommittee to support the Office of Community Engagement. I believe we've reached a point where expanding our efforts would be beneficial, and additional involvement from board members could significantly enhance our impact. I'm open to whatever structure the board deems appropriate and am fully committed to assisting. With broader participation, ideally involving members, our initiatives could be far more effective.

Cheryll: I think that's an excellent proposal, and I'd be happy to volunteer. I also look forward to discussing your views on transparency at the next board meeting.

President Adams: What questions do you have for the director of community engagement?

Director King: Explained the APRA community to the board.

Kelly: I am asking for some clarification of policies and procedures, letter D, investigation timeline, and procedure. The last bullet point on D says under the CRPB review panel assesses the case independently. The review panel comprises the chair or Vice Chair, a board member, and the director or designee. So, can you explain a little bit about that, cause it kind of sounds like you could actually include some of us in the investigation.

Director King: The initial draft was not fully implemented, and once the final version was published on the website, the panel component was removed. It has remained available for public comment over the past 30 days. The version currently posted reflects the finalized policy and procedures for the office.

That said, the removal of the panel does not preclude the possibility of creating something similar in the future. I fully support transparency, and I appreciate that some board members are comfortable dedicating up to 10 hours toward these efforts. I can compile the necessary information within my office and incorporate the relevant details. Additionally, there may be an opportunity to utilize video footage, pending approval from the Police Department.

The direct access I have to information from the Police Department is exceptional, most boards do not operate with this level of insight. Incorporating these diverse perspectives will greatly enhance our ability to reach informed decisions. At present, only two cases remain without a final disposition, which is a strong reflection of the board's effectiveness, especially given how recently we began this work.

Legal and Policy Review:

President Adams: We now yield to our Council for the legal and policy review. Please share with us whatever insights or updates you have prepared

Council Masters: This evening's discussion was intended to focus on the process for reconsidering complaints prior to final disposition. However, in practical terms, I believe we have already carried out that process. Reconsideration allows us, at the next available opportunity following a vote, to revisit a matter. This action, specifically, a motion to reconsider with five affirmative votes, was not available during the initial review, but has now been applied to both complaints.

While our ordinance does not explicitly address this, it is implied that there is a deadline by which complaints must be resolved. If a complaint has not reached a final disposition by the end of that deadline, even after reconsideration, it effectively becomes administratively closed. In the case of the two complaints currently under review, they remain open for reconsideration, and that is the likely course of action.

We must begin with the principle of transparency. As public servants conducting the public's business, we are legally obligated to do so in a transparent manner, even when it requires sacrifice. Regarding the vote conducted on CPRB 1022, it is my formal opinion that the vote taken this evening is void. Although the ballots may be retained in the record, the inability to identify each voting member by name renders the vote noncompliant with the Open Door Law. At a minimum, transparency requires that each voting member be clearly identified along with their vote.

Before our next meeting, I will present a more formal opinion outlining alternative voting methods that comply with the Open Door Law. These are my thoughts on Agenda Item 7: Legal and Policy Review, Chair.

President Adams: I have a question for you: Isn't it true that many review boards across the nation conduct these reviews in closed sessions, where even the minutes are not made available to the public? Before I ask for your thoughts on that, I'll first yield to the director to speak on the matter.

Director King: Well, I have been to the review board in Kalamazoo and in Indianapolis, they both have different policies as far as open door laws, but in Kalamazoo, MI they would move to go into executive sessions and then move to go back into their public meeting so they were able to do both. Now, I don't know that the law is the same in Indiana, but we should probably be look at how we conduct our executive session meeting and even with that, I know there's still some public stuff there, but we need to consider those and when they are necessary.

President Adams: But the question is not the case that we know that nationally review boards conduct these specific hearings in close session where there are not even minutes of their votes.

Director King: There are several states where it's closed sessions.

President Adams: I want to assure both the Board and the Council that when I say the Chair has considered your concerns, I truly mean that, they have been thoughtfully considered. I will wait to hear back from our Council to see if he can cite any specific rules or regulations that explicitly state a ballot is not an appropriate method. Until then, please know that the Chair has taken your input into account.

Cheryl sought clarification regarding the recording of ballot votes in the meeting minutes, specifically whether each board member's vote must be listed alongside their name and signature, even if the signature is illegible. **President Adams** clarified that six of the votes were legible, and the seventh board member was easily identified by the Board Secretary. That member also verified their vote with a signature, allowing it to be counted.

President Adams: further reassured both the board and the public that this was not a secret ballot, it was a standard ballot process. As such, it is clearly understood that each board member's name and vote will be entered into the official record. He emphasized that his primary concern as Chair is to remain responsive to the board's concerns and, moving forward, he will consider whether the use of executive sessions may be appropriate in certain circumstances.

LuElla: raised a concern about whether an illegible signature could invalidate a board member's vote.

Council Mastes: Yes, that's correct. In my opinion, the Court of Appeals decision interpreting ballot voting found that there was no violation of the Open Door Law, but only because each voting member's vote appeared on an instrument that was made part of the official record during that meeting. This meant that each vote was clearly documented and preserved on the written instrument upon facial examination. I cannot reach the same conclusion in our case.

Asking the Secretary to attempt to discern who cast each vote, when the votes themselves are not clearly identifiable, is problematic. On facial examination, I cannot determine the identity of each voter, which is why these votes must either be taken by roll call or read into the record. Asking the Secretary to make such determinations amounts to a judgment call, when instead we could have created a transparent public record.

Due to the failure to do so, I would consider this a void vote. I believe I have sound legal reasoning for reaching that conclusion under the Open Door Law.

I've also considered the use of executive sessions and what Indiana law permits. When such sessions are allowed, advance notice must be provided. However, I have not been asked to apply that consideration to the current situation as we sit here today.

Kominique: With that being said, in your opinion that the votes are voided, should they still be included in the meeting minutes, given that the vote was conducted without identifying names? How should this be documented, should the minutes reflect that a vote was taken but deemed void, or should they list the members whose votes were legible, noting that one vote was illegible? If the vote is considered void, is there any reason to include more than a simple statement that the vote was invalidated?

Council Masters: The minutes ought to reflect that a vote was attempted but not completed, with an explanation stating that the manner of voting did not comply with the Open Door Law. While the minutes may note this, the documents related to the vote must still be retained as part of the official records of this meeting.

I believe it is not strictly within our purview to direct the Secretary, as an officer of this body, on how to maintain the minutes. However, if asked to explain the outcome of the attempt to revote on CPRB 1020, my opinion is as follows:

A vote was attempted but not taken due to noncompliance with the Open Door Law. Nevertheless, the documents produced during the meeting will be preserved as public records. As an addendum to the minutes, I would suggest this explanation accurately reflects the attempted action regarding CPRB 1020.

Cheryl: Those ballots are classified as public records, which means the media has the legal right to access them. Once obtained, we have no authority to prevent them from sharing or publishing the information.

Council Masters: Explained to Cheryl that Indiana's equivalent law is the Access to Public Records Act (APRA), and expressed agreement with her statement.

President Adams: The attorney will get back to us with an opinion, likely before this board votes to approve the minutes. That vote will serve as our final decision on whether to record the matter as a voided vote or, as I believe, a legitimate ballot vote. So, we do have time.

Council Masters: I can read the ballots into the record. Based on the results, it would be a non-majority vote, which would lead to the closure of this matter. That approach would be compliant with the Open Door Law, provided I can identify the individual whose ballot is currently unreadable. However, you would need to authorize me to do that, I wouldn't presume to take that action on my own.

President Adams: As previously stated by the Chair, this is not a secret ballot. Member Secretary, you are welcome to approach the individual in question to verify their signature if it appears illegible.

Public Comment: None

Final Board Member Comments:
Cheryl: I encourage the city to identify and address any signage that may cause confusion. Additionally, I recommend that the police clarify whether the officer informed the individual that they could not enter their vehicle. It's important to note that the security guard is not

present when I exit the building, which may cause discomfort for others who feel uneasy about leaving alone. To prevent future misunderstandings, council should implement educational training on the rules and expectations during executive sessions, specifically, what is permitted and what is not.

Regarding CPRB 1020, a ballot vote was conducted; however, it did not achieve the required majority for approval.

The next board meeting is scheduled for Thursday, June 26, 2025, at 6:00 PM.

At 8:10 PM, President Adams moved to adjourn the meeting, and the motion was unanimously approved with all members voting "aye."

X_____ **Date**_____
(Chariman)

X_____**Date:**_____
(Board Secretary)