



## **COAB Meeting**

**Thursday, January 26, 2016**

**City of Portland Development Services Center**

**1900 SW 4<sup>th</sup> Avenue**

**Room 2500B (2<sup>nd</sup> floor)**

**5:30-8:30 pm**

## **DRAFT Minutes**

### **Meeting commenced 5:47 PM**

#### **Present:**

Philip Wolfe

Tom Steenson

Lt. Tashia Hager

Myrlaviani Rivier (via live stream)

Catherine (arrived 6:03pm)

Rochelle (arrive 6:30pm)

### **Welcome/introductions**

Dennis explained the current status of the Settlement Agreement (SA) and COAB-COCL; reviewed agenda.

Philip thanked the community for supporting the COAB so far. Asked whether the board wanted to keep agenda item #4 (presentation of community survey results).

Tom: It's a farce to discuss the community survey when the City and DOJ have abandoned the COAB and ignored community engagement. Urged that it not be considered.

Ann Kasper: How can the community contact the firm that conducted the survey or if there will be another venue where the survey results are presented?

Philip: Is there informal consensus on removing #4 from the agenda?

Tom: noted that there were supposed to be 15 voting members on the COAB but the City did not come up with a plan to replace them; there are now only seven acting members. Their terms expire January 31, 2017. He also noted the COAB bylaws have been modified such that a majority is now considered the majority of the current board membership.

Philip: the City has been out of compliance with the SA and COAB hasn't been able to work. He wanted an extension, many community members agreed.

Kalei Luyben: Provided a brief history of Portland Police human rights violations since 2010.

### **Discussion with Mayor Wheeler**

Philip introduced Mayor Wheeler, who conveyed his thanks and noted that he's been following the COAB closely. The Mayor has been reaching out to the Department of Justice (DOJ), the Albina Ministerial Alliance Coalition (AMAC), and the Portland Police Association (PPA). He wants to hear the COAB's opinions and make it clear that he is highly committed to this process and that this will not be the end of community engagement on police reform. The Mayor stated, "I wanted to be here to hear your reflections on the process; I'm honored and privileged to be here. I'm here to learn and listen."

To start, Philip asked for community comments and questions.

Joe Walsh: Mayor, we really need you. We can fight but what's coming down from DC is scary. We need each other. We can't be at each other. We need you to do something to encourage us. I'm begging you to understand the seriousness of this. You can show us you care by saying, I will fight for this. Extend the COAB. If you make this the last meeting, then you're just like the last mayor and can't be trusted.

Mayor Wheeler: I don't believe this COAB was particularly effective in terms of reaching its stated objectives. (From a comment by Catherine Gardner when she introduced herself: "Our term is almost up and nothing was really done.") So rather than asking you to extend the COAB, I need to know what didn't work. What do we actually need to do to make a body like this effective? I need specific feedback about the experience.

Carol Landsman (Portland Cop Watch): COAB has been hamstrung from the beginning due to COCL looking over it. Two questions: 1.) What do you want to do about community

involvement? 2.) Police violence the previous weekend. ACLU said it was a failure. Police overreacted. What do you think and what will you do about the police response?

Mayor Wheeler: 1.) I came to talk about COAB and community engagement. Community engagement means a diversity of viewpoints around table. Not just about listening but hearing. People can look at the action plan and see their ideas, and if those ideas aren't there, they know why. 2.) Use of force: I saw last Friday, based on info I had, it seemed appropriate. However, City will review after action reports and complaints. If people acted improperly, they'll be held accountable for it.

Sharon Maxwell, former COAB member: Disappointed by the location of the meeting. She also questioned if there would be another hearing with Judge Simon, and was upset the City has blocked that. She wants COAB to pass a resolution that removes COAB from Rosenbaum & Watson and places the board under Judge Simon. COAB didn't have real independence because of the City. Process should be free from "pay to play" tactics. COAB was blamed for process not working and were denied legal representation outside of the City. Judge Simon has seen inconsistencies here. City Auditor has requested that the policy change for her to be independent in order to prevent forced influence of government. We deserve a free, independent structure that calms citizens' minds. We've been brutalized by a system we volunteered for.

Kevin Fitz of Oregon Mental Health Association (MHA): Moving forward will be the Mayor's decision; here is one constructive suggestion: In December 2016, roughly 32% of Oregonians qualified for Medicaid. 800,000 Oregonians sought mental health and addiction services. I'd like the City to commit to support a bill/amendment to promote peer services throughout the coordinated care contract structure in Oregon and for all mental health recipients throughout the city of Portland.

The Mayor said he strongly supports peer services, is glad the Unity Center feels the same way, and knows the MHA worked to make that happen.

Bob West: During the last two protest days, people with mental illness were injured, police didn't follow protocol, they launched OC gas at a child and his dad as they were trying to leave. Bob observed police body slamming an 18-year-old kid. Totally unacceptable.

Mike Schuman from Portland Copwatch: I disagree with the Mayor when he said COAB didn't do anything. The COAB passed 50 directives, police representatives talked with them. If the City had adopted them, a lot of things would have happened.

Mayor Wheeler said he didn't mean to imply that. He was repeating what a COAB member had said about it during introductions. One authority he'd like (would need to happen through collective bargaining process) is to have the final say on discipline process. I will support PPB when they do something right and oppose them when they don't. I think council made a mistake of giving this up it's hard to get back once you've given it up but I'm going to try.

Phillip passed the conversation over to COAB members.

Tom: COAB was not given independence, couldn't self-govern and received restrictive legal advice from the City Attorney. COAB wanted to work out differences with community members. After chairing numerous meetings, we got through meetings and got things done. City and COCL are the ones who put impediments to COAB working. I think if our recommendations were implemented you'd understand we were effective. No reason why terms can't be extended beyond two years. You can reverse the decision to allow COAB to expire, allow those who want to continue, take steps to replace COAB, and allow us to chair ourselves so we can keep working. We're not beyond the point where we could continue to work. If I were the mayor I could do it in about ten minutes. Beyond the problem with disciplining officers, a bigger problem is the institutional and cultural problem within the police bureau. To start, look at the recommendations the COAB has passed. The next high profile outbreak in the community will be because an African American will be killed by the police because of racial profiling.

Mayor: I'm committed to look at the recommendations. It's not fair to bring people together to ask them to create recommendations and not give a good faith effort to review them.

Rochelle: There were 100 recommendations. Forty-seven to fifty of them were on accountability alone. Doesn't know that anyone has looked at them. We worked very hard; we read about national and international best practices. Whether or not you choose to continue COAB, it would be sad for those recommendations not to be looked at."

Philip: Any time you have a discussion with the PPA, police, etc., those doors need to be open. Closed doors leads to collusion. I'm asking for transparency from you at all times, period. Include community first, especially those with traumas or who have had negative interactions with the police. As for the COAB: We've worked tremendously hard for two years. We submitted recommendations and the City put us on hold. We had six seats that were on hold for six months. People started resigning. We did everything we could to keep going. We are asking for extended time. Whatever you can do to help COAB continue; this is our last chance.

Mike Bluehair: I've been to dozens of riots. You don't want Portland to turn into Seattle with five police wounded. Your use of tear gas is beyond the pale. Please stop tear gassing people. Try breathing tear gas. I threw up twice and was crawling around.... You're terrorizing me, Mr. Mayor. Do you want to piss off the thousands of people attending protests? Yesterday your officers used martial arts and pain compliance. That's excessive use of force. If you want to see a massive Black Block fighting your cops in the streets, keep using that tactic.

Ann: Is grateful that the Mayor's office calls back. Out of all the recommendations, four address how to deal with people in mental crisis. I think we got off topic with what the Settlement Agreement is about. Do we have the right people at the table? The COCL are good researchers, but are they good facilitators? I've seen things improve with police and mental health since

2006. I encourage you to look at how PPB's Behavioral Health Unit (BHU) works. Mental health advocates haven't feel included in the COAB process. I'm really sad there only four recommendations on mental health. Also, I wanted to give the mayor a sympathy card for mental health folks who have died this year. Thanks for your work.

Mayor: Thank you all; I appreciate the hard work around table. I think I misunderstood comments made at the beginning of the meeting. I'm hearing you worked hard on your recommendations, you did good work and the work went nowhere. I commit to review each recommendation. Email me and let me know what are the super important ones. I want to take a deeper dive into those.... He mentioned that they talked about legal oversight and facilitation training during the conversation, which he agrees with.... I'll give that a full review. This has been a very good use of my time; I hope you've considered it a good use of your time.

The Mayor also said he's be happy to get the public's thoughts in writing and provided his email:

[mayorwheeler@portlandoregon.gov](mailto:mayorwheeler@portlandoregon.gov).

### **Break**

Philip encouraged everyone to email the Mayor about a COAB extension. Then he opened up discussion for COAB. Catherine moved to vote on COAB extension.

### **VOTE:**

#### **Recommendation 012617-1: The current COAB members' terms should be extended.**

Catherine moves.

Tom seconds.

In favor: Tom, Philip, Rochelle, Catherine, Myrlaviani

**Recommendation passes 5-0.**

### **Discussion with DOJ representatives about COAB**

Adrian Brown from the Department of Justice (DOJ) was invited to speak:

Adrian: We want to extend our sincere appreciation to all COAB members, including police advisors and voting members: we appreciate the hard work you've done. For us this is not ending on January 31. We will continue to engage in the process of restructuring COAB. Thank you for your recommendations, they haven't been ignored. We'll continue to review them. Brian Buehler from DC is here as well.

Brian Buehler: Everyone in the Civil Rights division has a lot of admiration for how many hours you've put in. We've tried to attend meetings as much as possible. We stand in recognition of how much you all have done.

Tom: I find your comments hollow. If you appreciate our work, you would have placed the City in noncompliance. So I see it that you're partners with the city in allowing us to expire.

Adrian: We determined the city is in noncompliance for this area and others but we haven't filed noncompliance yet, because the Settlement Agreement requires DOJ to provide the City a chance to remedy their noncompliance prior to filing any motion of non-compliance. That's why we're engaged in facilitated discussions to remedy the issue of noncompliance.

Tom: In 2015 the DOJ recognized that the City didn't have a replacement plan in place. The notion that it takes that much time to work something out, that's nonsensical to me."

Adrian: Reiterated that the DOJ wants a plan to come from the City working with stakeholders to come up with a process, rather than a structure the DOJ provides.

Philip: It's been two years and I'm angry. It breaks my heart to see COAB dissolve like this. The city acknowledges "missteps". For eight months the City has had every opportunity to replace people. You need to hold the City accountable. We need DOJ's support. You can't have one foot in one door and one in another.

Adrian: I feel your pain but I'd ask you to look around at who's still here: DOJ and representatives from PPB are still in the room, not the City. We've missed very few meetings, we've spoken with members privately, we've invited you to meet with our office, and we will continue to have both feet in this door.

Rochelle: I appreciate what you're saying, I know you have a good heart; but you can't say you know the City is acting in good faith because they aren't – they're delaying using stall tactics. The City has never agreed that they or the police did anything wrong. So they're playing with you, us, and the tax payers. I don't have authority, but you do. It would be nice if you took your two feet and stepped forward to do something."

Dan Handelman from Portland Copwatch: I'm on the AMAC steering coalition and sent a news release to continue the seated members of COAB so that there would be some community presence. I see getting rid of the COAB the same as getting rid of the Affordable Care Act without having a replacement. You need continuity until the new board is ready to roll.

Joe Walsh: I don't understand — COAB was created as a voice for the community. They have no authority but they sent you recommendations. Where did they go? What happened? They were sent to you but you did nothing, you sat on them. Why?

Adrian: The policy review process included time to include COAB's recs. The reason there hasn't been more from DOJ is because we have only approved very few policies. With Use of Force policies being reviewed, Jonas Geissler (DOJ attorney) has been looking at all the policies, but we have not had an approved new Use of Force policy, which is why we haven't said anything.

Joe: I think this thing was designed to fail. You're saying the perpetrator, the City, tells you what to do. Why can't you go to the City and say you will keep the COAB in session or we will go back to the court and sue your ass?

Adrian: We did sue the city. As far as noncompliance, we found that they were out of compliance, and now we're at the process in the Settlement Agreement of allowing City the chance to get back into compliance.

Joe asked if the City could be taken back to trial.

Adrian: No. The judge has articulated that if the City fails to comply, the DOJ can put the City on notification and through mediation come up with a remedy. That's what would happen next. Right now we're working through a facilitation process with AMAC and PPA. The City's intent was to be done by 1/31/17; that comes up against other aspects of the Settlement Agreement being negotiated for amendments per paragraph 175. We're hoping to see this done in the next couple of months. The Settlement Agreement didn't provide a particular time frame. I agree with Dr. (Rochelle) Silver that parties must act in good faith. With a new mayor and his efforts to bring in staff beyond the City Attorney's office, we have no reason to believe they're not moving forward in good faith."

Jan Friedman, of Disability Rights Oregon since 1999: I feel sad because the community had a COAB as part of this Agreement which is a key piece because of the "us and them" mentality of the community and culture in Portland. If these dedicated people are dropped, the trust level plummets. DOJ, if you think the community should just work it out, then why are you here?

Adrian: I'm very sorry there's no one from the City present to hear this. This was the City's decision, not the DOJ's. We found the City in noncompliance, alerted the court, and asked the court for a status conference in a public setting before judge. The city appealed; the judge struck the status conference. The DOJ stands firm in our finding of noncompliance and engaging in the process of finding a solution as set forth in the Settlement Agreement. Ted Wheeler has decided to end this COAB as of January 31.

Jan: Since the DOJ Settlement Agreement, there's been a different atmosphere - I think if you put pressure on the City, they'd do something different. How about pressure on the City rather than collaborating with them?

Adrian: We continue to want the community involved in this process from Washington, D.C. to Portland. I'm committed to holding true to what we agreed to in the Settlement Agreement: to continue pressure; to insist that they comply.

Philip: I would have thought you've had time for some creative brainstorming. We can do the work without the City involved. People are dying in vain because of the noncompliance of the City. We have to have an extension of COAB.

Adrian: We continue to want to hear from people. I appreciate your comments. There are additional avenues. The Settlement Agreement is multifaceted. I want to be clear that some things were out of compliance but there is other work being done in PPB and we want to acknowledge that — for example, the City has made a lot of strides with BHU.

Katie H: The City has never been serious about accountability. It's been two years and nothing has happened and nothing has changed and they drag their feet at every step of the way. They've been given enough chances to fix things. I'd hate to be back two years later and see nothing else has changed.

Charles Bridgecrane Johnson: We'd like the DOJ to work with us in keeping people alive and give us real facts about the situation on the ground. Is it one judge or a panel of judges who deal with this? What is the timeline? Is it the intention of the DOJ to reapply for a status hearing?

Adrian: As far as the 9<sup>th</sup> Circuit is concerned: we aren't apprised of which panel of judges is assigned. But if there is oral argument, the panel is three judges. Prior to that the Circuit screens cases and determines whether a case is suitable for mediation. We haven't heard back if the case has been screened, referred to mediation, etc. But that's all public record. It can be found on 9<sup>th</sup> circuit's website."

Ann Brayfield: I appreciated this exchange and getting more clarity. I wonder Adrian, can DOJ see a way to continue this work with this Board with your presence and to hear from all of us while we're waiting? Is there anything that says we all couldn't continue, including you?

Adrian: I encourage everyone to continue to be involved and provide feedback. Jaclyn Wiener is the DOJ's community outreach specialist - she keeps us up to speed on everyone's emails that come to her. I encourage you to continue providing us with information. As for meeting with us, we're interested in continuing to hear from citizens.

Ann: Can you see yourselves sitting down once a month? I think this back and forth is important for understanding what's happening in this moment.

Adrian: I think it's important for the City to know, and we'll share, that you're asking us to do that. That to me is a cry of desperation. The DOJ is here temporarily but it's so important for the City and community to bridge this gap of trust to continue any success going forward.

Ann: This is not a long-term solution, but for now it's important. Right now if this community loses faith, we don't want to be here. If our desperation isn't heard, I think there will be even

more serious trouble and we'll be talking about more lost lives. You can help tell the City what they need to do to build trust.

Adrian said they are committed to discussing this with their team.

Philip asked the security guard to leave. The security guard agreed to but stated he was here at the request of the City Auditor.

Kif Davis: I'd like DOJ to request to see all emails from City officials, police, etc. I'm sure you'll see there's a criminal conspiracy to sabotage the COAB. Issue RICO indictments. This conspiracy has cost a lot of money and taken time away from community members. The City is intentionally sabotaging — that's criminal.

Kalei: I'd like to look forward: I will be in Spokane where NACOLE will hold its annual conference. I've been asked to present a program for the nation to look at, and there is international participation. The group started by saying what Portland was doing was important because of the community piece. "I began attending virtually all of the COAB and subcommittee meetings because I became aware that there was something wrong with the Settlement Agreement. That it was designed to fail became obvious. I would say to you, just use logic. It's not possible for citizens to fail without the City and DOJ failing. The City and PPB can't succeed if the community is failed. We will either save or fail ourselves. But there will be no winners.

Philip: I'm not done working. I know they say we're done on the 31<sup>st</sup>. We'll have to figure something out.

**Discussion and vote on the recommendation 012617-01: Discontinue the use of the "gang affiliate" list.**

CJ Robbins: I know this discussion is important. I believe the COAB is important. I think this level of engagement with power is critical. The effort I work with, Black Male Achievement (BMA), is very interested in what happens here, and with the gang affiliate list. I'm on the record that I'm here for this recommendation. The BMA effort started through community engagement. My bosses are really 20 black men who are leaders in their community. Our justice subcommittee identified the directive as an extreme barrier for young black men to success. 68% of folks on the list are black men, 27% are Hispanic, and a small percentage is "Other". Very much a list for black and brown men. We engaged directly with people affected by this policy and police. Unless someone has demonstrated violent behavior, we don't think they should be tracked in any way. And if they do, they need to provide preventative services because we recognize there's a problem and this is a preventative measure. Through an intensive workgroup effort, we designed a draft directive. We understand police will track violent people, we accept that, but to even identify someone as a gang affiliate, that should happen at a community level — a community panel has opportunity to decide and refer the person to services with no requirement that they receive them, but that's the intervention. If we're successful with a few, others will find out. We've been at this for about a year and a half. I'd like to present our draft

to this committee, to discuss it, and you can weigh in and approve that as what you send. This fizzled when Captain Modica was demoted but picked up when *The Oregonian* printed Carly Brazeau's [report](#). Alternatively, I'd like you to vote to eliminate the gang designation directive. I believe that will put the right kind of pressure on PPB.

Rochelle: This issue came up at the November Accountability (Data Systems, Use of Force & Compliance) (ADSUFCS) meeting. It wasn't on the agenda; it came up because of the Oregonian article. Steenson wasn't there, so she put in her own agenda item because the committee unanimously was incensed at what PPB was doing with the list. It was clearly a case of profiling. PPB says they don't, but they are with this list. Also, there was no way for someone to know if they were on the list unless they knew to go to the North Precinct and ask if they're on the list. No transparent reasoning on how you get on the list and what PPB does with the list. The whole thing was so obnoxious, the whole committee was overwhelmingly upset and the community unanimously voted to put forth this recommendation. This is the first meeting since that subcommittee meeting so either COAB votes on it now or it may never vote on it.

**VOTE:**

**Recommendation 012617-2: PPB should discontinue use of gang affiliate list and provide evidence that they have done it.**

Rochelle moves.

Tom seconds.

In favor: Tom, Philip, Rochelle, Catherine, Myrlaviani

**Recommendation passes 5-0**

**Recommendation 012617-3: If some form of the COAB continues, they follow-up on recommendation 012617-2.**

Rochelle moves.

Tom seconds.

In favor: Tom, Phillip, Rochelle, Catherine, Myrlaviani

**Recommendation passes 5-0**

Tom moved to adjourn.

Meeting adjourned at 8:30 pm.