A. Roll Call

Chair Borwick called the meeting to order at 6:02 p.m. Roll was called and it was noted a quorum was present.

B. Approve Minutes from July 11, 2016

Motion made by Mr. Dickerman, seconded by Mr. Walters, to approve. In a voice vote, the motion passed unanimously.

C. General Information

Mr. Dickerman expressed the condolences of the Board to the Fort Lauderdale Police Department for the passing of Detective Christopher Sheehan.
D. Review the following Internal Affairs investigation

1. Complainant: Chief Franklin C. Adderley (IA Case 15-093)
   Allegation:
   1) Engaging in conduct unbecoming a Police Officer / Police Department employee
   2) Conduct prejudicial disruptive to the good order of the Department
   Officer: David Knapp
   Disposition:
   1) Sustained
   2) Sustained

At this time Chair Borwick opened the floor to public comment.

Charles King, private citizen, read from a newspaper article describing the subject incident. He asserted that the Board should not “rubber-stamp” the findings of Internal Affairs, as he felt the Officer should be fired rather than suspended.

As there were no other members of the public wishing to speak on this Item, Chair Borwick closed public comment and returned the discussion to the Board.

Chair Borwick advised that the Board is seeking a way to offer additional input on investigations such as this, and emphasized the importance of representing the views of the community. Mr. Jernigan added that Mr. King’s comments showed the community was not comfortable with existing limitations on the Board’s authority. Mr. Walters added that the Board is meeting on today’s date in response to the time constraints placed on their review of cases.

Mr. Jernigan requested clarification of how much time would remain if the Board chose to defer the case for additional information. Major Karen Dietrich of Internal Affairs replied that the Board must hear a given case within 20 days of the issuance of discipline.

Ms. Currie noted that a closeout memo from the State Attorney’s Office was issued in April 2016, and statements on the case were issued afterward. Maj. Dietrich explained that when a criminal case is under investigation by the State Attorney’s Office, the 180-day timeline is not in effect. That time frame begins when Internal Affairs receives an administrative case, is suspended during investigation by the State Attorney’s Office, and resumes once the criminal investigation is complete.

Assistant City Attorney Brad Weissman stated that deferring a case for additional information would mean the Board did not have sufficient information to make a decision such as Sustained or Not Sustained.
Motion made by Lt. Stone, seconded by Mr. Dickerman, to sustain the findings of Internal Affairs.

Mr. Walters asked if investigators in this case reviewed camera footage to determine if the Officer’s behavior was recorded. Sergeant Francisco Vetancourt of Internal Affairs replied that most private businesses either do not have video security systems or the time frame in which video footage is retained had elapsed during the course of the investigation. The State Attorney’s Office also has the option to secure video footage.

Mr. Walters also asked if the Officer in question is currently on the Brady list, which means he has a record of lying while in his official capacity as an Officer. Sgt. Vetancourt explained that the Officer’s record will reflect that he has been on this list, although once the investigation closed, his name was removed from the active Brady list.

Ms. Currie asked if other Officers interviewed during the course of the investigation have been further investigated or reprimanded. Sgt. Vetancourt replied that investigators perceived these Officers’ statements as defensive of their coworker. He added that they did not change their statements after repeated questioning. Ms. Currie commented that she found these statements to be inappropriate from Police Officers.

Mr. Dickerman observed that he was concerned with the subject Officer’s level of intoxication, particularly while carrying a firearm. Chair Borwick agreed, asking if the Police Department has a protocol for the carrying of weapons by off-duty Police Officers. Sgt. Vetancourt explained that the Department requires weapons to be carried in a safe holster, which the Officer did not do in this case. He agreed that the Department can look further into this policy.

Capt. Falzone asked if the Officer has had any similar prior complaints. Sgt. Vetancourt replied that the Officer has not been charged with any alcohol-related issues before this investigation. Mr. Jernigan requested clarification of the standard of responsibility for off-duty Police Officers. Sgt. Vetancourt advised that the Officer is ultimately subject to the same laws as civilians. Police Department policy requires Officers to handle their firearms safely at all times.

Sgt. Vetancourt continued that prior to the issuance of formal administrative discipline, the Officer was restricted to activity at the Police Station and did not operate a marked vehicle or carry a firearm. He was paid his regular salary during the course of the investigation. The Officer is expected to serve his 20-day suspension in November 2016. He pointed out that every investigation is unique to the case.

Mr. Jernigan asked if this case could be forwarded to the Florida Department of Law Enforcement (FDLE) to determine if the Officer should be allowed to retain his certification. Maj. Dietrich replied that the case has already been sent to FDLE, which may recommend different or additional disciplinary action, including suspension of an
Officer’s certification. It is not common, however, for FDLE to make such a recommendation.

Mr. Walters requested clarification of whether the motion referred to both Allegations 1 and 2. It was confirmed that the motion included only Allegation 1.

In a voice vote, the motion passed unanimously.

Motion made by Mr. Dickerman, seconded by Mr. Walters, to sustain [Allegation 2].

Ms. Currie stated that she did not feel the disciplinary action taken was sufficient in response to the incident. Mr. Dickerman, Mr. Jernigan, and Mr. Walters agreed.

In a voice vote, the motion passed unanimously.

**E. Body Camera Draft of Policy Presentation – given by Major Victor London**

Major Victor London provided a presentation on the Police Department’s pilot body camera policy, which was sent to the Board members earlier in the month. This pilot program was presented to the City Commission in January 2016. He explained that the policy is being discussed at tonight’s CPRB meeting to provide the opportunity for public input and improve transparency.

Maj. London explained that a checklist of 33 items to be maintained by the policy was developed during the initial implementation phase. The policy provided to the members complies with 32 of these recommendations, with the exception of an item that would have required Officers to inform every individual present of the presence of a camera. In August 2016, the Leadership Conference on Civil and Human Rights released a scorecard that measured eight areas to be met by any Police Department policy. The pilot body camera program complies with all of these areas except the following two:

- Providing footage to complainants if a complaint is made;
- Biometric information such as facial recognition, which is not a specification of the Department’s policy.

Maj. London stated that he hoped the Board would review the draft policy to determine if they would like to add specifications or improve transparency. It was noted that in order to comply with the Sunshine Law, the Board may provide him with their feedback via their Staff Liaison’s office.

Ms. Currie observed that a model act developed by the American Civil Liberties Union (ACLU) and the International Municipal Lawyers’ Association (IMLA) recommends that Officers outfitted with body cameras also wear a lapel pin that would inform individuals with whom they have contact of the presence of a camera. She suggested that this could satisfy the recommendation for public notice.
Attorney Weissman advised that it was determined public notice would not be necessary for two reasons: under Florida law, there is no expectation of privacy in the public realm when a citizen is engaged with a Police Officer. In addition, the State Legislature has revised its Body Camera Record Statute, enacted in 2015, to create an exemption by which body camera recordings do not violate Florida's wiretap Statute. He pointed out that providing this notice to individuals could serve to stifle reporting of incidents, as well as open the possibility that a citizen could request that an Officer shut off his or her camera.

Attorney Weissman continued that while Florida law requires two-party consent when conversations are recorded, only the consent of an Officer is required when a law enforcement officer records activity for the purpose of collecting evidence.

Maj. London advised that the policy addresses unintentional failures to record activity: if an Officer intentionally prevents the operation of a camera, investigation and disciplinary action will follow to address the situation. If the failure is unintentional, however, the result is a training issue that is strictly associated with the pilot portion of the program.

Ms. Currie also referred to configuration and pre- and post-event status, suggesting that this could be amended to more specifically refer to when an Officer leaves the scene of an interaction or encounter. Maj. London pointed out that most cameras are able to record a certain period of time prior to activation by an Officer. This portion of the policy was included at the recommendation of the Fraternal Order of Police Committee, which assisted with development of the policy.

Attorney Weissman added that body cameras, depending upon manufacturer specifications and setup, typically record in a constant video loop that can be set to record over itself within a specific time frame. When an Officer activates the camera, the device saves both its pre-event and post-event recording, which is captured by the system. He explained that this raises the possibility of a change in working conditions for Officers, on which there is legal disagreement that may require further negotiation as part of a collective bargaining agreement.

At present, the pilot program has agreed with the Fraternal Order of Police not to engage in pre-event recording. Once the program passes the pilot stage, further discussions with the union are likely. Attorney Weissman noted that most law enforcement organizations have found that pre-event recording was beneficial to Officers.

Ms. Currie suggested that section E8 of the draft policy specify that video upload occur either before the end of the day or when the camera reaches the limit of its capacity, whichever comes first. She continued that section E13, which refers to critical or special circumstances, should recommend that cameras not be turned off in these circumstances until they have been retrieved by the lead investigator.
Chair Borwick referred to a section of the draft policy which notes that 35 volunteers will participate in the pilot program. He recommended that the program select some of its early participants at random rather than through volunteers, as those who volunteer may be more tech-savvy and less indicative of the norm. Maj. London stated that he would suggest this option.

Mr. Walters requested additional clarification of the lack of expectation of privacy when an individual interacts with law enforcement. Attorney Weissman reiterated that the law states there is no expectation of privacy when a citizen is speaking with a law enforcement Officer. With regard to the pilot program, he noted that the draft policy addresses certain times at which an Officer may turn off his or her camera, such as during interviews with confidential informants or during incidents that require heightened sensitivity, such as interviewing the victim of a sexual or domestic assault. In these cases, the Officer must verbally record the reason for turning off his or her camera.

Mr. Walters pointed out that the wording of the policy would mean the decision on whether or not to turn off his or her camera is left up to the Officer. This would eliminate uniformity of the policy. Attorney Weissman emphasized that Officers deal with fluid situations and it is very difficult to enact a policy that does not leave some factors to an Officer’s discretion. He pointed out once again that shutting off a camera without stating the reason would constitute a violation of policy.

Mr. Walters also recommended structural changes to the formatting of the draft document. These included section J, which states supervisors shall not review recordings without cause or for the sole purpose of searching for violations unrelated to a specific complaint. Maj. London explained that this was intended to prevent a supervisor who may have an issue with a particular Officer under his or her command from searching for infractions.

Mr. Jernigan recalled that in the recent past, the Department conducted a broad email search that included several words with racist meanings or connotations, and asked how this would differ from the draft policy. Ms. Currie pointed out that this search did not single out individual Officers, but searched all Departmental emails. Mr. Walters noted, however, that this search identified at least one Officer who was not part of the original investigation that led to the search.

Ms. Currie asked if members of the Police Department’s Special Weapons and Tactics (SWAT) team would be included in the pilot program. Maj. London replied that the specifications of body cameras must be suitable for the equipment worn and/or used by SWAT Officers as well as for the equipment used by various other Officers within the Department.

Mr. Jernigan requested additional information regarding the rationale for not providing body camera footage to a complainant. Maj. London explained that the Department’s policy document was already in place before other recommendations were issued by
the Leadership Conference on Civil and Human Rights. Mr. Jernigan asserted that complainants should have access to materials, such as body camera footage, that may bolster their complaint. Maj. London agreed that this portion of the policy could be reviewed further.

Maj. London continued that a request for proposal (RFP) will need to be issued in order to determine the costs associated with the pilot program, including not only equipment but storage of video footage. He added that one potential vendor has estimated they can fully outfit Officers and provide uploading and storage capability at a cost of roughly $80/month per Officer.

Mr. Jernigan asked if Officers are provided with the option of turning off dashboard cameras. Maj. London advised that dash cameras are positioned within the public realm, while Officers equipped with body cameras may enter private spaces such as an individual’s home. He repeated that individuals may not necessarily opt out of recording unless there is a compelling reason.

Mr. Dickerman noted a portion of the draft policy refers to release of body camera footage when it is deemed in the best interest of the Department to do so. He expressed concern with this language. Maj. London replied that this portion of the policy refers to the release of footage in the event of a high-profile situation, during which footage may counteract misinformation or clarify the incident.

Chair Borwick noted that the final decision regarding the public release of footage is left to the City Manager. Ms. Currie clarified that this portion of the draft policy states the Chief of Police or other designee may authorize this release after consultation, therefore not specifying a single individual.

Attorney Weissman added that public records laws also affect the potential release of body camera data, and advised that some footage may be confidential and exempt from disclosure. He explained that the intent is to prevent this decision from being made by a party such as an Officer or a public records entity.

At this time Chair Borwick opened public comment.

Charles King, private citizen, stated that the City Commission does not appear to be in favor of body cameras, although a consulting firm recently hired by the City spoke in favor of the devices. He concluded that every Officer should wear a body camera rather than offered the option of participating in a pilot program.

Ms. Currie observed that the pilot program is intended to last for a full year unless it is terminated sooner to allow for full implementation.

Chair Borwick thanked Maj. London for his presentation on this topic.
F. Ongoing Discussion Reference Changes in Ordinance

Mr. Jernigan distributed copies of a document reflecting his concerns with the existing Ordinance that governs the Board. He suggested that the Board have a membership of seven individuals rather than nine, that only one of these members be appointed by the Chief of Police, that this appointee be a law enforcement-certified civilian residing in the City of Fort Lauderdale, and that the remaining six appointees to the Board be appointed by each of the City Commission Districts, with one of the six to be agreed upon by the full City Commission.

Mr. Jernigan continued that recommendation would also reduce the number of Police Officers appointed to the Board from three to one, asserting that the presence of multiple Officers provides the potential for conflict of interest. He did not believe a volunteer Board tasked with making recommendations to the City Manager should include paid City employees from the area under review as voting members.

Mr. Dickerman commented that in the past, Police Officers and member of the Board have provided compelling arguments against Internal Affairs when they felt correction was necessary. Mr. Jernigan stated that his concern was with the potential for conflict of interest as well as the perception of the Board by the public.

Ofc. Atkinson pointed out that the Police Officers appointed to the Board are in the minority of membership and cannot overrule the remaining six members. Mr. Jernigan reiterated that the presence of Police Officers on the Board contributes to the perception that the Department automatically has three votes on any given issue. He suggested that Officers could be present at meetings to provide guidance and information without being voting members of the Board.

Ofc. Atkinson stated that the presence of Officers on the Board can demonstrate to the community that the Police Department is working together with civilians. Capt. Falzone added that citizens who are law enforcement-certified may or may not have Police experience. She noted that the Board receives a wider spectrum of information from active Police Officers than they could from the Department of Internal Affairs.

Capt. Falzone continued that she was not aware of any Officer who might have been subject to retribution for his or her actions as a Board member. She pointed out that cases are not addressed on a personal level, but are based upon the subject Officer's actions and the facts of the case. Ofc. Stone added that membership should also not be limited to Officers who live within the City.

Ms. Currie observed that perception by the community may also be positive, and emphasized the importance of Police Officers and civilians working together. She also did not agree that Officers should be required to be residents of Fort Lauderdale.
Mr. Jernigan asserted that civilians with law enforcement certification are not designated differently from the civilian members of the Board, unlike Police Officers. He continued that Officers serve on the Board primarily because the City Commission did not want the membership to be constituted entirely of civilians. He asked that his recommended modifications to the Ordinance be put to a vote at tonight’s meeting.

At this time Chair Borwick opened public comment.

Charles King, private citizen, stated that the presence of Police Officers on the Board presents a perception that “the deck [is] stacked.” He felt residency in the City should be an important aspect of membership, and concluded that while the Chief of Police may not pressure the Officers on the Board, the Police union may exert pressure on its members.

**Motion** made by Mr. Jernigan, seconded by Mr. Dickerman, for acceptance of the draft for inclusion for future discussion.

Mr. Staab commented that he was concerned with the scope of the discussion about the Ordinance, which began as a discussion of authorization to make recommendations but has recently come to include issues such as the makeup of the Board itself. He added that he was not aware of any public objection to the Board’s membership. Mr. Staab concluded that the Board has the greatest value when it renders an opinion on policy, and that he has not heard the public question these opinions based upon the members that rendered them.

In a vote by show of hands, the **motion** failed 1-8 (Chair Borwick, Ofc. Atkinson, Ms. Currie, Mr. Dickerman, Capt. Falzone, Mr. Staab, and Lt. Stone dissenting).

There being no further business to come before the Board at this time, the meeting was adjourned at 8:00 p.m.

Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.

[Minutes prepared by K. McGuire, Prototype, Inc.]