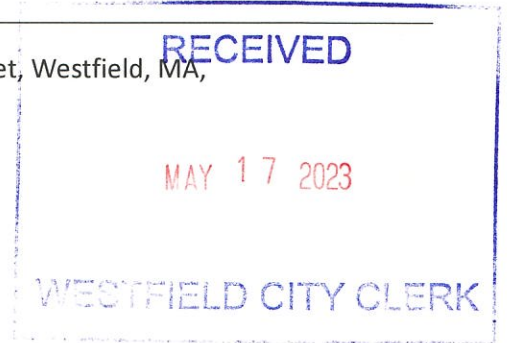


REGULAR MEETING OF WESTFIELD POLICE COMMISSION

WESTFIELD, MASSACHUSETTS

March 13, 2023

The Westfield Police Commission meeting was called to order at 59 Court Street, Westfield, MA, at 5:30 pm.



Roll Call: Richard Sypek – Present
James Irwin - Present
Peter Velis – Present

A. Approval and release of minutes dated February 13, 2023

Commissioner Irwin made a motion to approve the minutes dated January 11, 2023. Commissioner Velis seconded that motion.

Commissioner Sypek - Yes
Commissioner Irwin – Yes
Commissioner Velis - Yes

B. Open participation: None

C. Old Business: None

D. New Business:

1. Hear Step 2 Grievance Submitted by Patrol Officers' Coalition on behalf of Officer Gustafson:

Attorney Connor said this grievance was filed due to the memo that was issued by Chief Valliere. In that memo the Chief stated that if an officer is scheduled for a shift swap, they must show up. The officer cannot call out for their shift. He said the union's position is that this is a past practice. He also said under the labor laws, any changes should be bargained in good faith. He said in this case, Officer Gustafson was scheduled to work for another individual and the shift already had 8 officers scheduled. If Officer Gustafson needed to use his compensatory time to cover that shift, it would not have caused the department overtime. The compensatory request was denied and a grievance was filed. Attorney Connor also noted that previously Officer Coderre used time coming to cover a swap he was supposed to work. Attorney Connor said this is an example of past practice. He said the union is asking for clarification from the commission that this will not be denied in the future. Commissioner Irwin asked why an officer would agree to do a shift swap and then not show up. Attorney Connor said that shift swaps can be a far distance between when you agree to do the swap and when the swap happens. Commissioner Irwin pointed out that the shift swap form states the officer will work the detail. He asked what the word will means to them. He said it is the agreement. Commissioner Sypek said this is the first time anything pertaining to a shift swap has been brought before the commission. He said he needs to be more educated on how the shift swaps work. He said he has read other departments protocols on shift swaps and they all state that when you agree to the swap it is mandatory that you fill it.

Officer Blascak said that when you sign a shift swap form, you are saying you are responsible for covering that shift. However, if you cannot for some reason, you should be able to use your personal time off to cover the shift.

Commissioner Velis asked if there was evidence of deviation. Attorney Connor said in this case, the use of compensatory time was denied. There was not a previous case where the request to use

compensatory time was denied. That is the deviation. Commissioner Velis asked when the Chief's memo was issued. The Chief sent his memo on 10/6/22, the request was on 3/23/23 and the grievance was filed on 2/14/23. Commissioner Velis asked how frequently this happens. Officer Blascak said swaps happen often, but this practice is not as common. Commission Sypek said if you look at the form, it appears that the intent is that the officer agreeing to the swap is agreeing to work. Attorney Connor said he does not believe anyone is trying to abuse this. Attorney Connor said that if there is a desire to change the policy, it has to go through negotiations. Commissioner Sypek said he believes there needs to be a memorandum of agreement to set a policy for this.

Chief Valliere said this is not past practice. He said when he found out about it, he issued the memo. He said he was informed by the Office Manager that this was happening and that it was creating a clerical issue with the payroll. He said this shift swaps started in the 70's. It was known during that time that if you signed up to do a shift swap, you are expected to be there. He read the commission the email he sent to the department after this was brought to his attention. This email stated that there was an unusual number of shift swaps recently where an officer who was expected to take a shift swap was not coming to work and using time off. He said he then received an email back from Officer Blascak stating that this was a past practice. The Chief then responded stating that it is his understanding that the officers are agreeing to work the shift. He said he does not know why a supervisor would have signed off on allowing an officer to take time off and as soon as he was made aware of this, he sent out an email. Chief Valliere said the contract specifically address a shift swap. He said it is his interpretation of the language in the contract that both parties are agreeing to work their shift swaps.

The Chief then asked the Office Manager to explain what problems this creates with payroll. The Office Manager stated that she has been employed with the department since 2011 and she had not seen this situation come up until October. She said that what she was seeing was that an officer who was supposed to work a shift swap was using some form of time off to cover their own shift and then another form of time off to cover the shift swap they should be working. She said this would cause a 16 hour entry. Employees are paid for 8 hour days only. She said also raised questions with the HR Department. She said when a shift swap happens, there is no change to the pay because you are expected to work the shift. She said that she didn't see this until after the shift swaps had been done. She also said that there is a form that needs to be filed out when an employee retires that requests the Captain acknowledge that an employee has worked all of his shift swaps and does not owe any. It also requires the Captain to send back up documentation that confirms the officer has worked all shift swaps.

Attorney Connor said he has documentation showing this has happened at least 2 times in the past. He said he understands that this may cause a payroll issue if it were to be done on a day where an officer was supposed to work. Chief Valliere said that this is not Officer Gustafson's shift to take time off of. He said he can do that on his own shift, but this is not his shift. It is the other officer's shift. Chief Valliere said that in respect to past practice, the Chief would have had to have known about it and it would have had to go on for at least 6 months after he knew about it. The Chief said he sent out his email as soon as he was made aware of this happening. He said when the previous Chief made shift swaps available it was known you were to cover the shift and if you couldn't, you worked it out with the guy you were supposed to cover for.

Commissioner Velis asked what the consequences would have been had the Chief approved Officer Gustafson's request. Chief Valliere said there are so many ways to take time off. He said someone is always off. He wants officers on the street. He said this is not a profession where you can judge how many employees you need on any given day. He said having a full staff not only provides safety for the community, it also provides safety for all of the other officers working that shift. He said he needs to make sure that the department is operating with as many officers as possible at all times. Commissioner Velis asked if it would make more sense to come up with a policy on how to address the issue at hand going forward. Commissioner Sypek said that there are no rights in the contract regarding shift swaps. He said the contractual language just states that if you agree to a shift swap you agree to work that shift. It does not address allowing an officer to use accrued time off. He said he is trying to find the best way to get both parties to the table to come up with an MOA. Officer Blascak

said that there is language in the contract that address using compensatory time. Chief Valliere noted that that addresses only the officer's shift. Commissioner Sypek said he researched back to what the intent of a shift swap was. He said it was offered as a privilege. He said the Chief's interpretation of this is that if you agree to show up, then you show up and work. He said the contract was just negotiated and this was not included in this. He said other departments have an MOA that addresses how a shift swap will work.

Commissioner Velis said that Commissioner Sypek just noted that he would like to see an MOA in place. He said he believes all of the commissioners would like to see this. He asked again if all of the parties would be willing to discuss this further and come up with an agreement. Commissioner Sypek said he would agree to take no action and allow the union, the Chief, the Captains and the Law Department to come up with an MOA. Commissioner Irwin said he looks at this differently. He said the contract clearly states that if you agree to a shift swap you must show up. He said he isn't sure this should be negotiated. Attorney Connor said the union is always willing to talk with the administration. He said they have done this in the past and come up with an agreed upon MOA. Commissioner Sypek said that if the commission denies this, then it would go to the next level. He said that level is at the Mayor's Office and the Law Dept. He said if it is denied from there, then there is no chance to negotiate an MOA. Attorney Connor said that the Chief could send a letter that states his concerns and issue a proposed MOA. He said the obligation is not just on the side of the employee. The union has an obligation as well. Commissioner Sypek said that he believes that the commission taking no action and letting the union and administration come up with a proposed MOA will be the best solution. Commissioner Velis said he agrees with what Commissioner Sypek said. Attorney Connor said that if the administration wanted to discuss this, then they should have done that instead of denying Officer Gustafson's original request. Chief Valliere said that the coalition changed this by starting this process behind the scenes. He said he never changed the language that says secure another employee to work in his or her place. The coalition did that behind the scenes. He said he had to respond to that. Attorney Connor said he disagrees with that. Chief Valliere said that the coalition did change that. Nowhere in the contract does it say that an officer can take time coming or any other accrued time off when they are scheduled to work a shift swap. He also said the time coming language only refers to the officer's shift. It does not address a shift swap shift. Attorney Connor said he understands what the Chief is saying, but the purpose of past practice is to address situations that may not be covered in the contract. He said officers have used their accrued time in the past to cover a shift they were supposed to work for a shift swap. He said this has been going on for a long time. Attorney Connor said that the example he has was from 2021. Officer Blascak said it didn't effect payroll at that time which is why it never came to light. Commissioner Irwin said the contract is pretty clear and was signed by the Union President, Officer Blascak. Chief Valliere said that there are so many ways an officer can take time off. He said the department needs to have an officer on the shift and this is turning into a way to give 2 officers a day off.

Commissioner Velis said he does not understand why the union would not want to work out an MOA with the administration. He asked why the union would not want to do this. He noted that Commissioner Irwin feels the contract is pretty clear that if any officer agrees to a shift swap, they must work that swap. Attorney Connor said his concern is that there is a past practice and if it is a past practice, then it becomes a part of the contract. Commissioner Sypek noted that the union's idea of past practice is to say they were doing it even though the administration was unaware. He said he doesn't want to use the term getting away with it, but the administration didn't know it was happening. Once the Chief realized this, he issued a memo. He said the commission can always just say no to this grievance and let it go to the next level. He said he thinks shift swapping is a privilege and he doesn't want to see it get abused. Attorney Connor said the union has always been willing to work with the administration. Officer Blascak said that the union cannot do that with this. He said the commission has to either agree with the grievance or deny it. Commissioner Sypek said the commission can take no action and postpone a decision to see if the administration and the union can come to an agreement that works for everyone. Officer Blascak said that if the union feels they are in the right, then they are giving up something they think they are right about. Commissioner Sypek said that the commission does not agree and if they deny this, the union will then have to go to arbitration. Commissioner Velis asked if this practice poses any security risks. Chief Valliere said it hurts the man power. Officer

Blascak said that is the Chief's stance. The union's stance is that an officer is entitled to use his or her own compensatory time. Commissioner Sypek said the union will lose that argument. Officer Blascak said he understands that, but if taking the time off does not cause a decrease in manpower, it should not be an issue. Commissioner Sypek said this is why the commission is suggesting that the union and administration discuss this further. He said if they can't work it out, they can always come back before the commission.

At 6:35 pm Attorney Connor requested a brief recess so he could discuss this with Union President, Officer Blascak and Union Vice-President, Elijah Wolfe.

At 6:38 pm the meeting went back into session.

Attorney Connor said that Officer Gustafson's swap is coming up and there is something he needs to do during that shift. He said if the commission will agree to allow Officer Gustafson to use his compensatory time on that shift without setting a precedent, the union will agree to hold the matter and allow the Chief to send the union a proposal. He said if the parties cannot come to a decision, the union will contact the commission.

Commissioner Velis made a motion to suspend the grievance for on or about 30 days to allow the administration and the union to agree to an MOA regarding shift swap policies and to allow Officer Gustafson, without precedent, to use compensatory time to cover his shift swap, as long as there is enough officers to cover the shift. Commissioner Irwin seconded that motion.

Commissioner Sypek - Yes

Commissioner Irwin – Yes

Commissioner Velis - Yes

E. Chief's Report:

- a. Sick and Injured: Captain Pitoniak said that there is currently 1 officer out who's been injured on duty. There are 2 officers on FMLA and there are 3 officers on military leave.
- b. Building Report: Captain Pitoniak said that the lobby, the classroom, the Chief's office and the reports room have been re done along with the lighting. He is looking to update the security system and door access next.
- c. Fleet Report: The motor vehicle fleet is in good shape.

Captain Dickinson said the department put out a survey online to the public. It will go through the month of March. It will help the department to determine how they can better serve our community.

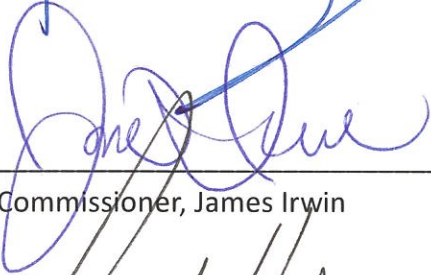
F. Announcement of next meeting: Monday, April 10, 2023

G. Motion to adjourn: At 7:07 p.m. Commissioner Irwin made a motion to adjourn. Commissioner Velis seconded that motion.

Commissioner Sypek - Yes
Commissioner Irwin - Yes
Commissioner Velis - Yes



Chairman, Richard Sypek



Commissioner, James Irwin



Commissioner, Peter Velis

APPROVED FOR RELEASE ON 5/15/23

