

**APPROVED**

**POLICE COMMISSION MEETING**

**Minutes of the Meeting of Monday April 13, 2009**

---

The Hooksett Police Commission held a public hearing on Monday April 13, 2009, at the Hooksett Town Hall. Present were Chairperson David Gagnon, Commissioner Henry Roy, Commissioner Mary Anne Maksalla, Chief Stephen Agrafiotis, Attorney James Higgins, Attorney Elizabeth Bailey, Attorney William Cahill and Officer Jason Defina.

Chairperson Gagnon called the meeting to order at 5:50 p.m.

The Pledge of Allegiance was held.

**Public Session**

Chairperson Gagnon explained the ground rules for the public hearing. He stated that the evidence would be presented by the Council for the Officer and Council for the Police Department. The public is not allowed to speak unless they are called as a witness.

**Discussion on Commissioners being Recused:**

1. Attorney Cahill asked Chairperson Gagnon and Commission Roy to recuse themselves from the hearing based on written submission that he received, or the citizens could be called as witnesses with regards to this issue.

Attorney Higgins asked Attorney Cahill if a motion was going to be made to recuse members of the Commission.

Attorney Cahill was asked to summarize the evidence that he thinks would result in recusal for Chairperson Gagnon and Commissioner Roy. A summary was given by Attorney Cahill on evidence presented to him by Budget Committee Member Dana Argo, Marc Miville and Maura Ouellette of statements made at different meetings by the two Commissioners.

Attorney Cahill stated that from the statements made by the taxpayers of Hooksett that where there. A motion was made that Commissioner Gagnon and Commissioner Roy recuse themselves from hearing the grievances on Officer Jason Defina.

**Discussion on Commissioners being Recused continued:**

2. Attorney Bailey stated that the police department objects to this motion, and it was not timely.

There were 4 grievances before the Commission and an issue of whether 3 other grievances would be waived.

- A. One involves Officer Defina's complaint that he was called back to work, and fully paid for that time.
- B. He was not given a series of overtime shifts that he had wanted.
- C. A 2 day suspension recommended by Captain Paul Cecilio
- D. A 5 day suspension recommended by Lt. Troy Cline.

None of these grievances involve any sort of issue about whether or not Officer Defina be recommended for termination. They were originally scheduled on March 2, 2009 and she was informed by Attorney Cahill that there maybe some issues, and that Officer Defina was asking that one or more members of the Commission to recuse themselves. The Union was asked to put a motion in writing and that it is supported by affidavits, or by Officer Defina's verified statements, the information was never received.

Attorney Bailey stated that the union has not met that burden with the evidence that has been presented to the Commission, and they ask that the motion be denied and that this board move forward and hear Officer Defina's grievances.

3. Commissioner Roy motioned to have a non-meeting with council at 6:03 P.M., seconded by Commissioner Gagnon. Motion carried unanimously.

Commissioner Gagnon motioned to come back into public session, seconded by Commissioner Roy. Motion carried unanimously.

4. Commissioner Gagnon took a vote on his recusal. Commissioner Gagnon- no. Commissioner Roy – no, Commissioner Maksalla- no.

Commissioner Gagnon stated that he voted no because at the time he does not believe that Officer Defina was on his mind at the time the statement was made. It was a back and forth conversation with the budget committee at the time the budget was being cut.

Commissioner Gagnon took a vote on Commissioner Roy's recusal. Commissioner Gagnon – no, Commissioner Roy – no, Commissioner Maksalla – no.

Commissioner Roy stated that his statement was made in a private meeting and it is public knowledge that Officer Defina is in violation on a Laurie Case. The Laurie Case regards candor. He feels he has no biases in moving forward in listening to the grievances.

**Issue of waiver of grievance report #09-03, 09-04 and 09-05:**

1. Attorney Bailey addressed the issue of waiver of grievance report 90-03 was a 2 day suspension recommended by Captain Cecilio, 09-04 was a 10 day suspension recommended by Lt. Cline, and 09-05 was a 5 day suspension recommended by Lt. Cline.

Attorney Bailey stated they believe that the grievances have been waived because the police department did try to work with the Union and Officer Defina to insure that they were handled in a timely manner before the Commission. The Union for whatever reason elected not to resubmit the grievances.

A brief overview was given on how the police department and the union handled the process.

Attorney Cahill stated that the Union believes that the grievance had been submitted in a timely manner.

Commissioner Gagnon motioned to have a non-meeting with council at 6:27 P.M., seconded by Commissioner Roy. Motion carried unanimously.

Commissioner Gagnon stated that the issue of waiver of grievances 09-03, 09-04 and 09-05 that there was no doubt they were submitted early by words of council.

Commissioner Roy motioned that Officer Defina has waived grievances report 09-03, 09-04, 09-05, seconded by Commissioner Maksalla. Motion carried unanimously.

**Grievance Report #08-04:**

1. Attorney Cahill gave a brief overview of the grievance that involved Officer Defina being called-back to work when off duty which caused a hardship for him.

2. Attorney Bailey stated that Article 22 of the collective bargaining agreement is what is being disputed. The language of the article actually says it does not limit call back, and it is at the Chiefs discretion. The Department did comply with Article 22. The Chief did try to get answers through other Officers and was not aware of issues as stated in the Banner's article, and had Officer Defina called in to get a better understanding of what was going on. There was no contract violation that occurred.

3. Attorney Cahill asked the Commission to agree with the union's view point that Article 22 had been violated, and this issue should be addressed and discretion should be used prior to enforcement of Article 22.

4. Attorney Higgins asked Attorney Cahill what was the relief that the union wanted on this grievance. It looked like they were requesting an immediate change to the contract which

**Grievance Report #08-04 Continued:**

is for the collective bargaining not for a grievance. He was asking for a finding of a violation of the contract.

Attorney Cahill stated that they are looking for a finding that there was a violation of Article 22.

Attorney Bailey stated that they need to look at the contract language and see how it is written, and there is no violation.

**Grievance Report #08-05:**

1. Attorney Bailey gave a brief overview of the grievance it was for Officer Defina being suspended for 2 days for discourtesy and incompetence from Captain Cecilio.

Lt. Cline found a copy of a newspaper article with a note posted on his office door written by Officer Defina, were everyone could see. They do not believe that that was an appropriate way to address a concern with a superior. Lt. Cline thought this was disrespectful and was disturbed by the tone of the note. To him it read in a rude, insolent and sarcastic tone. There was a meeting between Officer Defina, Lt. Cline and Officer Megowen in which he recommended a 1 day suspension. After a discussion Lt. Cline changed the recommendation from a 1 day suspension to counseling. Capt. Cecilio deferred to Lt. Cline's to reduce the discipline.

Capt Cecilio wrote out his expectations of Officer Defina and was trying to reinforce what Officer Defina should already be aware of and it was reviewed by Officer Defina.

All paperwork was reviewed and discussed in reference to this grievance.

Attorney Bailey stated Article 18 of the collective bargaining agreement states that the Chief does have the ability to order discipline if he feels there is just cause to do so. The Chief did review the information and agreed with Capt Cecilio's recommendation and that Officer Defina has been discourteous and had demonstrated incompetence.

Based on this information they believe that Article 18 has not been violated because the 2 day suspension under the circumstances and placed in proper context, was for just cause.

2. Attorney Cahill stated that he thought it was a stretch to say it was rude there was no swearing, no profanity and unless there is a policy on how to place mail on the door. He does not understand why it was brought up.

He addressed Capt. Cecilio's memo and stated he went overboard in detail.

Attorney Cahill asked that the Commission uphold the grievance.

**Grievance Report #08-05 Continued:**

Attorney Higgins asked Attorney Cahill if the union was asking that the record be expunged and be made whole. Attorney Cahill agreed.

Commissioner Maksalla asked how long had Officer Defina been made SRO officer before he was made aware of an SRO log. Officer Defina stated that there was no SRO log at that time. Attorney Cahill stated that it was something new that was going to be introduced that had to do specifically with the schools, as opposed to the daily patrol log.

Motion to adjourn at 7:20 P.M.

Drafted by: Executive Assistant Francine Swafford