

**MADISON DEPARTMENT OF
POLICE SERVICES
REGULAR MEETING – January 8, 2007
9 CAMPUS DRIVE, MADISON– 7:30 PM**

Attendees: Commissioner Emile Geisenheimer, Commissioner Thomas Cartledge, Commissioner David Smith, Commissioner Michael Rollinson, Commissioner Michael Heaney, Chief Paul Jakobson

Also Present: Sgt. Tim Heiden, IBPO President; Officer Dan Maxwell; Det. Jim Daniels; First Selectman Tom Scarpati

CALL TO ORDER

Meeting was called to order at 7:30 PM by Chairman Geisenheimer followed by the Pledge.

PUBLIC COMMENTS

Chairman Geisenheimer opened the meeting to the public for their comments. There were none.

GRIEVANCE

- IBPO Grievance: 19-2006 – 2nd Step

Chief Jakobson explained this grievance is the resubmission by the Union of several grievances relative to changes in shift scheduling. The grievances filed earlier were not heard by the Commission due to timeliness not within contract parameters. This grievance is refiled on the same matter.

Officer Maxwell represented the Union. He explained, after 19 years the shifts remained virtually unchanged with each shift having a set of weekend days off. Recently, the 4-12 and midnight shifts had weekend days (Saturday/Sunday) eliminated; day shift remains unchanged with weekends and a partial weekend off.

His contention is, the Chief can set the days and hours off but he (Maxwell) feels this is not fair as it affects him directly (he previously had weekends off). It is not being done to anyone else; doesn't know what is behind this – is it a punishment. Doesn't think there are any statistics to show a crime wave occurs on weekends in the evening. Feels it is unfair to the shift because when his days changed for him, it changed for others on his shift and this affected officers relative to school, day care, family functions, etc. The schedule is the only stable item in the department. There aren't enough officers - people get days cancelled, are held over, ordered in, etc. Officer Maxwell said he thinks this should happen to all shifts if it happens to him.

Sgt. Heiden cited Article 15, Section 2, Subsection a., which charges favoritism. Both Maxwell and Heiden feel there is discrimination taking place. Maxwell has not seen this happen since 1988. CID and supervisors, administration all remain unchanged – only the 4-12 shift is affected.

Chief Jakobson referenced his response to the Union dated January 4; he appreciates Maxwell's statement that the Chief can make changes in accord with Article 5, Section F, and explained this is not an experimental rotation of shift as it is not delineated in the contract. The changes reference the 5 days on, 2 days off schedule; Article 5, Section B states "The Chief shall determine the number of position available on each shift and the days off for each position. The Chief shall post one schedule for all employees, at least 56 days before the beginning of the schedule. He continued, the only change on this shift rotation was elimination of Saturday/Sunday as days off. There was a request from the lieutenant on that shift for more personnel on weekends – it was a viable request. Chairman Geisenheimer asked if the lieutenant gave a reason? Chief Jakobson answered, he wanted more staff and this gives more flexibility for other people on the shift to take a weekend day off – he made the change based on the contract. It does not mean it will not come back; there have been other changes to the schedule (T/W) with no complaints. Chairman Geisenheimer asked if there is evidence that the lieutenant who made this request has a reason? The Chief answered, it is just this shift. Commissioner Smith asked if the lieutenant stated his reasons? Chief Jakobson said, it was because he wanted additional staffing without having to go to OT. The days off can

be placed back on the schedule in the future – the contract says the Chief has the right to do so. The person in charge of the shift made the request and the Chief complied.

Officer Maxwell said if this continues, namely that a supervisor can make a request, what will come next? Can the hours be changed? Commissioner Rollinson stated, the way the contract is written, the Chief has the prerogative. Officer Maxwell said this is unfair – punish everyone else. Chairman Geisenheimer said he doesn't see the punishment – it affects you (Maxwell) because of seniority. Commissioner Heaney feels there is no testimony to that effect – we don't know the reason for the lieutenant's request. Chief Jakubson answered, it is operational. Commissioner Heaney said, we are asked to resolve a grievance but he doesn't think there is carte blanche to eliminate sets of days that must be inserted into the schedule, including Saturday/Sunday. Chief Jakubson answered, if he had sufficient bodies he would agree, but subsection C encompasses all days off. He would need 9-10 people to accomplish this. Commissioner Heaney feels the lieutenant's request is abstract – it doesn't answer the question why you need additional manpower? Chief Jakubson continued, if someone else wants a day off on the weekend, with additional personnel on a Saturday/Sunday he can grant a day off without paying OT; that is one issue. Commissioner Heaney commented, basically it is a staffing level. Chief Jakubson said, this is a 3-month schedule while Commissioner Heaney felt this is new. The Chief reiterated, it is not a new rotation, just different days off, and he feels in the next contract, fixed days off should be stated. The grievant is not arguing the number of personnel and days off, rather he feels he is being unfairly targeted. The Chief asked the Board to look at the grievance as it is presented.

Commissioner Heaney said he doesn't think Maxwell is claiming discrimination. Chairman Geisenheimer stated, Maxwell did say it was a result of discrimination and it would be different if it happened to everyone. With that, Commissioner Heaney said he can't get a sentence into these quasi-legal hearings. Chairman Geisenheimer said, when you disagree, you say something is being violated. We are discussing the grievance. Commissioner Heaney stated, he is trying to get out his views and is continually interrupted. Chairman Geisenheimer said, for the record, not everyone has asked a question and he then invited Commissioner Heaney to speak. Commissioner Heaney asked how he has been uncivil; Chairman Geisenheimer said, your tone is combative and uncivil. You don't have to be so nasty about how you ask questions – you don't have to be antagonistic to the Chief of Police. Commissioner Rollinson asked to call the question.

Commissioner Heaney continued, he is trying to understand the grievance. The grievant is complaining about his Saturday/Sundays off on a 5/2 schedule, which was eliminated from 2 shifts for all but supervisors; it has been left in the two other shifts. His first question is: why was the change made, particularly in this fashion, to affect 2 shifts? The answer was, it wasn't a change on a discriminatory motive, it was based on a supervisor's request for more manpower on those sets of days off. What was the increased manpower need? He understands it to be for scheduling, as it is cheaper to eliminate that particular set of days off so due to scheduling constraints, there is no OT. Chief Jakubson replied, one of the reasons is if a person wants additional time off. If a lieutenant needs or wants more people on the shift, the Chief doesn't demand justification from that supervisor. The contract allows it – it is in place for this 3-month bid. The union did not comply with the 20-day response time on its earlier grievance on this matter.

Chairman Geisenheimer asked if the lieutenant's request was general or specifically to eliminate Saturday/Sunday? Chief Jakubson answered, he asked that the days off not include Saturday/Sunday to get additional personnel on the weekends. Chairman Geisenheimer asked – he proposed a solution? Is that the one in place? Chief – yes. Commissioner Heaney asked the Chief if he has the flexibility to eliminate Saturdays/Sundays on all shifts? Chief Jakubson answered, if I so choose.

Commissioner Rollinson asked Officer Maxwell what days he has off now, in lieu of Saturday/Sunday. Officer Maxwell answered, there are no parts of weekends on the evening shift. Sgt. Heiden said he wonders what were the reasons for the lieutenant to ask for this change? He thinks that would require some investigation beyond allowing more people to have the weekend off. There is no data to determine the basis behind Saturday/Sunday volume. Sgt. Heiden asked if the lieutenant asked for eliminating these days off and he thinks it is important for the Board & Chief to understand what is involved in people at work, and also outside the department.

MOTION by Smith, second by Rollinson to deny the grievance. Commissioner Rollinson said based on the language in the contract, the Chief has the right to do this explicitly because it involves days off; he can change it in accord with the contract. Commissioner Cartledge suggested that Sgt. Heiden's comments were well made and they need a different dialogue – this is very structured and does not leave open dialogue. Commissioner Rollinson added, once the two new people graduate from the academy the weekend shifts could go back on the schedule. Chairman Geisenheimer said he votes to deny the grievance but takes to heart Sgt. Heiden's comments. He continued, he can appreciate the effect on officers and families. We can't infringe on families, but it has an impact on people. Commissioner Heaney said he will vote against the motion – he would sustain the grievance. He continued, while he doesn't question that the Chief has, and should have broad latitude he thinks the latitude is limited by past practice. He is not satisfied that the Board has gotten a thorough reason for the change – if it is only to save OT, this is another example of a grievance due to the long standing understaffing problem. It puts the Board and the Chief at odds with the rank & file. We should incur the cost, not take it out on the police. We are not suffering – they are. The vote was called. 4-0-1 (Heaney). The motion was carried.

CONSENT AGENDA – CHIEF'S REPORTS

MOTION by Smith, second by Cartledge to accept the minutes of the December 14, 2006 Regular Meeting. The vote was called 4-1-0 (Heaney abstained). The motion was carried.

CONSENT AGENDA

Commissioner Heaney said he would like to discuss the financial and traffic reports.

Regarding the financial report, he drew attention to the OT listings, in particular criminal investigations which is overspent half way through the year. He continued, OT is at about 60% spent half-way through the year. If we continue with OT at that rate, we will be \$40,000 over budget. It underscores that we have been consistently, significantly under budget in the OT category each year a result of reductions in OT by the Board of Finance. He suggested the Board of Finance tell the Commission what they would like for a figure. We cannot do it for the money allotted.

Chief Jakubson said classified OT also has DWI reinforcement, which is then reimbursed by the State of CT; that reimbursement will change the balance to a degree. He continued, the staff has been very active in criminal investigations for ongoing investigations and has spent a lot for background investigations for the new officers. Background investigations cannot be handled during regular hours. It should be noted, we are only at 54.8% expended for classified replacement. If that remains constant, we are pretty close to what the figure should be for the year. He continued, they cannot count on the State for a specific DWI reimbursement date. Commissioner Rollinson said he would like to see some statistics on the DWI grants. The Chief agreed and said the DWI personnel are strictly for DWI, which is two extra staff on the shifts although they can be used in the case of an emergency. Chairman Geisenheimer asked for a tally of the reimbursements by the next meeting. The Chief said the investigative account is a historical area of concern and it always goes in the red. Regular replacement is pretty much on track.

Commissioner Heaney questioned the traffic year-end report – his concern is, the biggest cause of accidents as reported is following too closely. He thinks we can do something about accidents caused by people who are in a hurry or are distracted. He would like to convert this traffic information into Board policy goals and thinks they should do something constructive with these reports or eliminate them from the agenda. The Chief reviewed the monthly reports and said overall, motor vehicle accidents are down from the previous year by 25%. Supervisors are having personnel target specific areas. If he had the staff & money he would put together a traffic enforcement squad to target different areas at different times of the day. Thinks they are doing a tremendous job with the number of personnel. Chairman Geisenheimer said it doesn't appear there was a department-wide traffic strategy; he feels they should review the number of accidents caused by speeding, etc. and locate staff to reduce and track it. He continued, he thinks it would be helpful if this was done across shifts. The Chief said there is a potential, but with a shift with 2 personnel to cover 155 miles of roads they target what they can, when they can. He welcomes commission members to come in and review the data collection. Redirecting personnel is related to the number of shift personnel. Chairman Geisenheimer said he would like to see specifically where and when the accidents

occur. The Chief will give him data for times & dates of tickets. Commissioner Smith commented, regardless of staffing – two things are that the number of citations has gone up dramatically and in 2006, the number of accidents is considerably lower than what it has been. Well done. Chairman Geisenheimer said he would like to see a correlation between the time of day and the location of accidents. Doesn't know if it is uniform across shifts? Chief Jakubson answered, it is based on the type of shift they are working.

Commissioner Heaney said he would like to see a brief half-page report of a duty roster to tell how of the officers who is present, who is sick, injured, at the academy, training, etc. and who is assigned to which general functions (patrol, CID, administration.); he is confused as to the working roster which the public and press can't keep it straight.

MOTION by Smith, second by Cartledge to accept the Consent Agenda. All in favor. None opposed. So moved.

Heaney leaves at 8:30 PM to attend another meeting.

8:30 PM

OLD BUSINESS

- Accreditation Process – The Chief advised that West Haven is the next department going through the process. We are on track – within 1 year we will be able to make application for certification.
- Chief's Benefit Statement – The Chief reported, he has the old one; hasn't met with anyone yet about the new one.
- Discuss and Take Action on Request(s) as Needed
 - Traffic: Heatherwood Drive/Concord Drive Intersection

The Chief referenced a memo from the Assistant Director of Public Works who is not recommending stop signs at the Heatherwood Drive/Concord Drive intersections because it does not meet the basic state warrants. He has no objection to warning signage indicating 'Children at Play' within the subdivision.

The Chief continued as these requests come in he will have the engineer's office review them. The engineer's office researched their files for certificates of approval that have been issued in the past. He explained, when a road is accepted by the town there is a request to post the speed limit based on a recommendation; that then goes to DOT for final approval. He asks that the Commission approve 25 MPH signs in Heatherwood, contingent that we will research this with DOT, in addition to signs for children at play. Future requests for signage will be reviewed case by case. These signs are not apropos for feeder roads (Green Hill, Opening Hill, etc.)

MOTION by Rollinson, second by Smith to approve installation of "Children at Play" signs in the Heatherwood subdivision and that the Chief request 25 MPH signs as well, pending research and approval by with DOT. All in favor. None opposed. So moved.

The Chief briefly reviewed another letter from Opening Hill Road residents for "Children at Play" signs which will be researched by the Traffic Officer and the engineer's office prior to the next Commission meeting.

MOTION by Rollinson, second by Cartledge to open the agenda and table to the next meeting a request for "Children at Play" signage on Opening Hill Road. This will be taken up at the next meeting for the speed limit reduction and the signage for school bus stops ahead. All in favor. None opposed. So moved.

8:38 PM

NEW BUSINESS

- Goals for 2007

Chief Jakubson advised there is a plan; we are up to date on 07/08 budget preparation. He will be meeting on Wednesday (1/10) at 10:30 AM to work on budget preparation with Lt. Stimpson and Tim Rowe. The

contract is settled, so from a salary standpoint they will have an actual figure. He continued, they will have to look at energy cost issues with the impending rate changes and ask for guidance from public works.

- FY 2007-2008 Budget Schedule

Chairman Geisenheimer advised, this is per the staffing study to set goals and set up metrics. The Commission would like to work on specific goals for future discussions and they would like the goals prepared by the Chief and his senior officers to be presented to the Commission for their input.

8:42 PM

- Discussion: IBPO Contract for July 1, 2005 - June 30, 2012

Mr. Scarpati was invited by Chairman Geisenheimer to the meeting to give an overview of the newly settled IBPO Collective Bargaining Agreement. Mr. Scarpati read from a prepared document the discussions and evolution of the agreed upon contract between the Town and the Union.

The past police contract with its improved pension benefit, retiree medical, and 'lost-time' benefits (vacation, sick, comp, holidays, etc), while fairly negotiated by the Police and agreed to by the Town placed a difficult financial burden on the Town. The accrued liability for the retiree medical benefit for the current police population reached \$3.55M in 2006, requiring an annual payment of \$0.5M to fund the benefit. This cost will grow as more members enter the covered pool and medical costs continue to escalate. The current roster of 24 officers is incompatible with the desired work and patrol plan, the scheduling module (3 shifts/ 5 days on/2 days off) and the permissible 'lost-time' benefit (50 to 60 days per year). Significant and unsatisfactory levels of overtime were necessary to make it work. As a result, there was the continual request for more police officers that were rejected by the Town. We believed that adding more staff to offset 'lost-time' with no increase in police activities was non-productive. Adding new staff into the existing police pension plan would further increase the accruing liability and its annual cost. To everyone's dissatisfaction, we were at a stalemate.

This situation was discussed with the police union negotiating team as the existing contract terminated. Together, we agreed to settle these issues and do it without binding arbitration. It took several months but, together, we did it. The new contract provides for a lesser benefit package for new police hires. This caps the cost of the existing pension plan and provides us with various funding alternatives. In addition, the police agreed to sell back 17 'lost-time' days per man. This equates to almost 350 days of increased manpower availability per year – the equivalent of a 1.5 man gain for the same roster. Both sides had to accept compromise, always the good sign of a fair and respectful negotiation. As a further sign, we also agreed to a six-year contract.

The new Police Commission and the Chief now have better tools to manage manpower and contain overtime. With the new pension, additional police services requiring new manpower can be considered on the merits. Both the union and the town made the extra effort to understand each others' needs and the result is a compromised contract that paves the way to future cooperation.”

By way of discussion, Mr. Scarpati commented that it took a long time; the union had options throughout. Under the existing contract there was a reopener for spousal medical. The contract also had a requirement which indicated that the succeeding contract was not to address pension. The town insisted on that in the original contract in 2001. The union availed themselves of the right for spousal. The town won that; the town insisted they discuss pensions but the union chose not to; this was their right and they did nothing improper. The town requested a one-year contract, which also went to binding. The town prevailed. When it came to this contract, it was slow to start. The town and union came to the conclusion that binding arbitration was not in their interest. They were concerned because they did not prevail previously. The town didn't want binding arbitration because there were two major things – the buy back of a substantial amount of lost time and the change in the pension for new employees that he didn't think an arbitrator could deal with. He reviewed the pension plan and the stretching out of vacation for new employees. He feels the killer was lost time – time off with pay is an important benefit for officers. They negotiated hard for that. With the help of the Chief they structured an offer on lost time to help control OT and provide a structure for the officers. He discussed buybacks of vacation and comp. days. The intent was not to save

money – it was to increase availability. The most they could get was 17 days, which is the equivalent of 350 days; that was the intent.

As far as schedule changes, there have been questions why it wasn't handled during negotiations. In the agreement with the police and the ground rules for negotiations, that agreement was struck in the beginning. He felt that was significant enough – it would show bad faith if that was brought in mid-stream. Secondly, he felt there is always language for experimental changes. Even if the police chose to not support it, it would have derailed discussions. He continued, if the union feels strongly that it is an issue to see negotiated in reopeners, he will sit with the union to open up conversations. The key is – new officers come under a different structure to cap the GASY 43 for retiree medicals. It permits the town to have the option to make payments – it is noted in the audit report if the town does not make the donation. The retirees stay in the pension plan, rather than prefunding \$500,000/year now. If the board's staffing study indicates you need more officers to do more policing, he would support that. Mr. Scarpati thanked the board for the opportunity to address them and in turn, was thanked by Chairman Geisenheimer.

Chief Jakubson commented, that is the comprehensive contract but you do not have the pension plan – no one does. Mr. Scarpati told Det. Daniels if there is a request for a scheduled module change he is available. Det. Daniels said the members will hear him out.

Chairman Geisenheimer concluded, he would like to take a different approach – one of finding solutions together with senior officers and all officers to build a democratic relationship.

9:03 PM

MISCELLANEOUS CORRESPONDENCE

Chairman Geisenheimer referenced a letter commending CID for an investigation which spanned more than one year regarding the abuse of a child. The efforts of Sgt. Fox and Det. Daniels were tremendous. He feels they are the unsung heroes of the department. He accepted the letter with thanks to the State Attorney's office.

9:03 PM

Heaney returns.

Chief Jakubson discussed correspondence from "Connecticut Rolling Flags" for the support by department personnel when they passed through Madison en route to Arlington National Cemetery with a tractor loaded with wreaths for soldiers' graves.

Commissioners' Comments:

Commissioner Heaney said it was discussed that the Board of Selectmen is considering a revision to the ethics policy and asked if we propose to send a formal comment about the ethics revision from the Commission. He said Mr. Scarpati asked Helen Burland to receive and discuss any comments on the ethics policy and how it might be inconsistent or consistent with our own ethics policy. Chairman Geisenheimer said he is concerned because we already have an ethics policy – to have another ethics policy is odd. Chief Jakubson said the police department's policy has been on the books for 20+ years; within the past 5 years, new personnel have signed off on it. We have had a law enforcement code as part of our officer's manual since 1986. Chairman Geisenheimer commented, when there are two documents, their cross interpretability is subjective. He would like the ethics policy to be applicable to commissions that do not have a policy. The police ethics policy is different than the town's standards; ours is officer standards. If there is an agency without a policy, then the town's policy could apply. He endorses the notion but we already have one in place.

Commissioner Heaney said his question is the same. If the Board of Selectmen accepts this policy – how, and if, does it apply to the Police Commission? Chairman Geisenheimer said he thinks the ethics policy is problematic due to which policy applies. Chief Jakubson suggested that the Commission advise the Selectmen that we have had an ethics policy in place for more than 20 years. Ours has been utilized and is effective; in lieu of the town's policy ours stays in effect. Commissioner Smith agreed and said the town's

policy should not supercede the police policy. Commissioner Heaney said the commission should act, as a commission rather than individually, and that the new policy apply to those agencies without their own policy. Commissioner Rollinson agreed, our agency is uniquely different.

MOTION by Heaney, second by Cartledge that the Commission authorize the Chairman to communicate the sense of the commission to advise the Board of Selectmen that the Board of Police Commission be exempt from the new ethics policy. Chairman Geisenheimer suggested that the wording contain that we consider adopting the policy for those agencies that do not have an ethics policy in place, otherwise that agency's policy would remain. All in favor. None opposed. So moved.

At this point, Commissioner Heaney stated, he will resign from the Police Commission effective on the appointment of his successor by the First Selectman and indicated that by March a person should be ready to fill his seat. He will be working on a big project that will take a lot of his time. Additionally, it is possible that he and his wife may be moving out of state later this year. He will serve until he formally steps down and will remain until the new person is ready to start. Chairman Geisenheimer said he will be missed.

Chief Jakubson reported that the TRCC grant has been submitted to DOT for a signature. It appears we have the funding for new mobile interface in the cars for Madison and also there is funding for four other towns in a consortium.

MOTION by Rollinson, second Cartledge to adjourn to Executive Session at 9:21 PM. All in favor. None opposed. So moved.

Present in Executive Session: Chief Jakubson; Chairman Geisenheimer; Commissioners Cartledge, Smith and Rollinson; Det. Jim Daniels. Topic: Legal issues; investigations.

9:36 PM: Return to Open Session

MOTION by Cartledge, second by Smith to adjourn the regular meeting at 10:18 PM. All in favor. None opposed. So moved.

Minutes Accepted: February 1, 2007