

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

Attendees: Chairman Emile Geisenheimer, Commissioner David Smith, Commissioner Thomas Cartledge, Commissioner Garry Gyenizs, Chief Paul Jakubson

Also Present: William Clendenen, Town Attorney; IBPO Representative David Hebert; Community Members

**REGULAR SESSION**

**CALL TO ORDER**

Chairman Geisenheimer called the regular meeting to order at 7:33 PM and asked that all rise to recite the Pledge of Allegiance.

**Public Comments:** Chairman Geisenheimer called on members of the audience and asked that their public comments be brief as this was a very full meeting agenda.

Les Klein: 32 Middle Beach Road West

Mr. Klein began by stating he is a 16-year resident and noted he has written to the Board and the Chief with his Middle Beach West traffic concerns. He said Middle Beach West is an 800' long, 100 % residential road posted with two 25 MPH signs; his judgment is that many cars exceed the 25 MPH, traveling at a speed of 45 MPH. He continued, there is a 100 % correlation between speed & noise; faster the car, louder the noise. He has been told Middle Beach West has no reported accidents or trouble and noted the high number of walkers, joggers, bikers, etc. Many people complain about the non-drivers. Police are aware of the noise problem and have tried patrolling, using radar and the electronic sign. He feels they affect nothing at all and the speed resumes once the patrol officers leave. The speed trailer sign records but doesn't stop or slow down drivers. Sign is facing west; feels it is non productive. Cars, trucks, and motorcycles create excessive noise when traveling over the speed limit. He would like to see a sign noting that speeders will be fined, which he believes will reduce the speeds. While he thinks the police make honest efforts, the dichotomy of people who live there have to be respected as well. Middle Beach West is not a comfortable street because people are going 40 MPH, not 25 MPH. You don't hear the 25 MPH cars.

Chairman Geisenheimer noted Mr. Klein's concerns and said he will comment on his statement at the end of the meeting during Chairman's Comments; suggested Mr. Klein watch it on TV.

7:42: Deephouse arrives

Bryan Braxton; 532 Opening Hill Road noted that this road is 1/8 mile north of the Overbrook Road intersection. He thanked the Chief and the Department for being responsive to his concerns related to that 600 block of Opening Hill Road. His concern is pedestrian safety related to his and neighbors' children who play in front yards and ride bikes. Concerned for neighbors who walk their dogs, ride bikes, walk, cross the street to get mail and children unloading from school buses. The factors are: #1 the volume; #2 pedestrians. His concern is speed. Many cars along Opening Hill Road travel in excess of 30 MPH and have even passed him when he was driving 30 MPH. Drivers aggressively speed in the 500 to 600 block of Opening Hill Road past children at bus stops and Stepping Stone Lane.

He said he respectfully submits a solution which is to lower the speed limit to 25 MPH which is what all streets that butt up to Opening Hill are; in fact, Opening Hill is only road in that area at 30 MPH. Reduction in speed to 25 MPH would help with noise levels but most importantly, will increase pedestrian safety and make the street more residential. He feels people travel 40 MPH+; a solution could be to post signs that Opening Hill Road has pedestrian traffic, children playing, school buses unloading/loading.

Joseph Lennon 564 Opening Hill Road. Mr. Lennon said he shares the same concerns; has been living there since 1983. He has observed that near Deepwood, people speed and also cross over the center line near the corner of Opening Hill. For safety reasons, he no longer walks his dog on Opening Hill Road - noise is a factor

as well. You can hear the acceleration of cars, trucks, landscapers, etc. turning from Woodsvale onto Opening Hill.

Chairman Geisenheimer said his concerns would be discussed at the end of the meeting and noted that traffic is something the Commission has put focus on for traffic strategy. This will be discussed during Commissioners' Comments.

#### **COMMENDATIONS**

- Case 0700005059: Officers John McDevitt; Bryan Baxter; Derek Aivano
- Case 0700005059: Dispatcher William Coady
- Case 0700005059: Lt. Jonathan Dobbin
- Lt. Robert Stimpson – Firemen's 100<sup>th</sup> Anniversary Celebration

#### **7:49 PM**

Chairman Geisenheimer noted that the four commendations merit a separate ceremony and he would entertain a motion for scheduling a special occasion.

**MOTION** by Gyenizs, second by Cartledge to plan a special awards ceremony to commend the officers who performed in an exemplary fashion.

#### **7:51 PM**

##### **GRIEVANCE (S)**

- IBPO: 06-2007 – 2<sup>nd</sup> Step
- IBPO: 07-2007 – 2<sup>nd</sup> Step
- IBPO: 08-2007 – 2<sup>nd</sup> Step
- IBPO: 09-2007 – 2<sup>nd</sup> Step

##### **GRIEVANCE (S)**

- **IBPO: 06-2007 – 2<sup>nd</sup> Step**

Attorney Clendenen reviewed the Union's second step grievance, 06-2007. He advised the Commissioners have received copies of the Chief's action. To supplement the record, Attorney Clendenen advised he wanted to introduce to the Board of Police Commissioners a copy of the Chief's letter of 1/26/07 to former Madison Officer Joseph Gambardella which referenced IA 06-12 and a copy of the Chief's letter of 2/25/07 to former Madison Officer Joseph Gambardella referencing IA 07-01. In addition, included are the minutes of the proceedings, which are the official record of 5/15/07 and contain the record of the vote of the Commission, which led to the termination of then Officer Joseph Gambardella. Attorney Clendenen continued, also included is the 5/15/07 letter sent by the Chairman on behalf of the Board of Police Commissioners which was sent via Certified Mail to Joseph Gambardella; said letter notified him of the official vote to terminate his employment with the Town of Madison, effective immediately. In terms of the prima facie case, this fully supports the Step Two level of the grievance. There are many other items if the Union or Joseph Gambardella choose to present additional evidence. He continued, the Department is fully prepared to present, in detail, that information.

Chairman Geisenheimer stated for the record that the grievant is grieving his discharge; the Union's grievance summary states 'the grievant was discharged without just cause' with remedies to: 1. Reinstatement; 2. make whole for any loss; 3. legal fees; 4. purge disciplinary file of references; 5. any other proper remedy.

Dave Hebert, National Representative of the IBPO, represented Joseph Gambardella and requested a closed session regarding the pending charges because he does not feel it appropriate to discuss the charges while being filmed. It is a personnel matter. Chairman Geisenheimer asked Mr. Hebert if he planned on presenting anything substantive regarding the charges? New evidence? Mr. Hebert said he has a memo and defenses to the reasons Joseph Gambardella was terminated. Chairman Geisenheimer said he would like to look at it [the memo] before the matter is heard in open or closed session. He continued, for the record, the Board conducted the termination hearing largely in closed session in the matter of more than one full day with extensive testimony on physical evidence. The actions of the Board are a matter of public record and, he continued, he is a torn to make that judgment lightly. The Chair then asked for a moment to review the document from Mr. Hebert.

**7:57 PM**

Chairman Geisenheimer asked Mr. Hebert if there is new evidence and stated that the memo appears to a legal argument which he will accept for the record, but it doesn't appear to present anything new as a way of evidence. Mr. Hebert responded, his appearance at this meeting is to satisfy Section 15 of the Collective Bargaining Agreement; under Step Two, someone from the union must make an appearance – he is here to do that. He continued, he has more than what is in the document. It contains excerpts from the original testimony and from Attorney Brady's memo that was given to the Board; his purpose is to satisfy that requirement.

Chairman Geisenheimer noted that throughout this process they have been, as a Commission, extremely mindful of the due process rights former officer Joseph Gambardella has and had regarding issue of his termination. He continued, we have a great deal of respect for due process; ergo, with this grievance we want to afford him every opportunity. If there was evidence we would hear that in closed session. As you know, Joseph Gambardella was accused and found to be guilty of willful misconduct knowingly undertaken. His deliberate conduct showed a total disregard for the policies of the Police Department and the Town of Madison. He was found guilty on fifteen separate charges. There were other charges that bore on criminal accusations; we did not act on those. Unless there is something new, we accept the memo as a matter of record but unless there is something else there is no reason to go into Executive Session.

**MOTION** by Smith, second by Cartledge to accept the memo from the IBPO with regard to former officer Joseph Gambardella and in this particular case to deny the grievance. Chairman Geisenheimer asked for discussion and called the vote. All in favor. None opposed. So moved.

Mr. Hebert asked the Chairman if he would respond in writing to this at some point? He continued, he believes the contract calls for a response within ten days of receipt. Chairman Geisenheimer answered, we will respond in writing but you have our answer. Mr. Hebert said he respectfully requests that he be excused. (8:02 PM).

Chief Jakobson asked to hear the grievances out of order to allow for calling Officer Aivano in off patrol. Additionally, he noted that the union had misnumbered the grievances and stated: 06-2007 references Gambardella; 07-2007 references Aivano's Personal Day; 08-2007 references Martin's travel time and 09-2007 references carry over vacation days/designated days.

**8:03 PM**

- IBPO: 08-2007 – 2<sup>nd</sup> Step

IBPO Union Steward Officer Daniel Maxwell asked to have the three grievances heard in Executive Session as they all personnel matters.

**MOTION** by Smith, second by Gyeizis to adjourn to Executive Session at 8:04 PM. All in favor. None opposed. So moved.

**9:10 PM**

Return to Public Session

**GRIEVANCE (S)**

- IBPO: 07-2007 – 2<sup>nd</sup> Step

**MOTION** by Gyeizis, second by Cartledge to deny IBPO Union Grievance 07-2007 regarding cancellation of Officer Aivano's personal day. All in favor. None opposed. So moved.

- IBPO: 08-2007 – 2<sup>nd</sup> Step

**MOTION** by Smith, second by Cartledge to deny IBPO Union Grievance 08-2007 for travel overtime for Recruit Martin. In favor: Geisenheimer, Smith, Cartledge. Opposed: Gyeizis. **MOTION** carried, Grievance Denied 3-1.

- IBPO: 09-2007 – 2<sup>nd</sup> Step

This grievance has to do with provisions of the new contract entered into this past year which provides that a week of vacation must be designated on the schedule by 7/15; there is another version of the contract which

says that no vacation days unused during the FY may be carried over to the new fiscal year, except for 5 days, with the approval the Chief of Police. It is the Union's position that 5 carried over days could be used as the designated 5 days. It is the Town's position that the Chief requires that the 5 days carried over have to be scheduled prior to the beginning the of the new fiscal year; the new contract versions read once the fiscal year began.

**MOTION** by Smith, second by Cartledge to deny IBPO Union Grievance 09-2007. All in favor. None opposed. So moved.

**9:14 PM**

Attorney Clendenen asked to be excused and left.

**CONSENT AGENDA:** Acceptance – Meeting Minutes – Regular Meeting of June 14, 2007 and Regular Meeting of July 12, 2007

**MOTION** by Smith, second by Cartledge to approve the minutes of the Regular meeting of June 14, 2007. All in favor. None opposed. So moved.

**MOTION** by Smith, second by Cartledge to approve the minutes of the Regular meeting of July 12, 2007. Vote: 3-0-1 (Gyenizs abstained).

**MOTION** by Cartledge, second by Smith to accept the Chief's Reports. All in favor. None opposed. So moved.

**Committee Reports:** None

**9:16 PM**

**OLD BUSINESS**

- Traffic Accident Study

Chief Jakobson reported that the Traffic Accident Study is continuing and LT Dobbin is correcting some anomalies in previous year's data. The data is being updated by an officer on light duty. He noted the pin map in patrol is growing - as new accidents are registered they are put on the board. LT Dobbin will have a report at the September board meeting.

Chairman Geisenheimer asked that Lt. Dobbin give his assessment of the today's public comments at the September meeting.

- Speed Trailer Survey Results – Middle Beach West

Chief Jakobson noted that in the agenda packet are the results of analyses of the two areas discussed by the public earlier in the meeting. The Middle Beach West study was conducted 6/13-7/15; almost 81,000 vehicles were clocked. The report shows in the 25 MPH area, the average speed was 20.16; maximum speed was 61 MPH. The 85<sup>th</sup> percentile used by traffic engineers is noted as 26 MPH and is an acceptable parameter.

Commissioner Cartledge asked if this is what was facing Middle Beach West on Island Avenue? Chief Jakobson explained the speed trailer picks up oncoming traffic. Commissioner Cartledge asked if anyone commented on the validity of the numbers based on location? Is it Middle Beach West towards Island Avenue? You can see the trailer; how far back does it record speed? The Chief said it is a line of site issue; from where that trailer is, in excess of 100 yards is a clear line of sight. Other factors are: vehicles traversing and pedestrians can interrupt the cone. Generally, it records at 100 yards or better. Commissioner Cartledge said almost every time he would see a vehicle approach the trailer, the driver would see the trailer flashing and would slow down. Chairman Geisenheimer added, the trailer collects data, but also alerts people to their speed. Most people acknowledge the speed shown and slow down. Chairman Jakobson called it voluntary compliance; traffic is generally within the posted limit. The lieutenant is notifying shift commanders specifically of the times of speeding (early AM or late evening) and said there will be periodic enforcement. Commissioner Cartledge said he thinks it would make more sense driving along Middle Beach West to slow down – there isn't enough distance to speed up. Chief Jakobson said the trailer has been placed off the road near Mr. Klein's

address-other locations don't lend it to being moved around. Virtually the same data is shown in different locations.

Commissioner Smith asked if the data is recorded as to the time of day? Day of the week? He suggested that during the hours of Mr. Klein's concern we could look at the average speed with the standard deviation. Chief Jakubson said we can do that. We've had the trailer for almost 5 years; periodically it is checked. There is a small hand-held recording computer that we download. We can print a report from that computer with speed, day of week, time. We will receive updated software for more data. The second survey was blind; i.e., the speed trailer was visible but did not flash. People got comfortable and forgot about the trailer. Lt. Dobbin broke the report down by shift and number of vehicles (day and evening were most traveled). High speeds are early AM or evening; the report is broken down by shift with commuter times noted. He listed the times for the Opening Hill which are noted as "Before Enforcement Efforts" with average speeds of 32.25 MPH on the midnight shift; 33.46 the average speed on the day shift and 33.03 the average speed on the evening shift. He continued, we are looking for several ways to interpret the data, which is back out to the supervisors. The new software will afford additional timed date ranges and multiple time ranges so we don't have to intervene; when it is downloaded it will be usable.

Chairman Geisenheimer asked, with the information going to the shift supervisors will they enforce at those times? He said the public needs to be aware that this speeding is dangerous; we have to do something about it. Chief Jakubson said he is very sympathetic to the speeds; he too travels through town in his police car, private car and motorcycle. Most of the roads are old horse trails; the primary secondary roads are parallel to Rte. 79. The roads are not standard widths but he doesn't feel residents want roads widened to 26' with sidewalks. Some form of traffic enforcement by us will work to ensure safety. The speeders probably live in the area; they are familiar with the roads. When we do enforcement, speeds will drop for a period of time. For example, Middle Beach West is not a walkway – it is a town road; he wants the speed limit to protect all the pedestrians, walkers, etc. and noted people can't walk 3 abreast. Parking on the side of streets is permitted unless it impairs traffic or is posted for No Parking.

Chairman Geisenheimer validated Mr. Klein's comments – there is a lot of speeding and pedestrian traffic on Middle Beach Road, which it can be very dangerous with near misses.

- Accreditation

Chief Jakubson reported that at this stage there have not been many meetings; he needs to sign off on one-half dozen SOPs; accreditation will be brought up to speed soon. Chairman Geisenheimer reminded the commissioners to read the accreditation document in order to be ready to ratify when proposed. At the next meeting they can discuss pulling the comments together.

**NEW BUSINESS**

- Officer's Leave Without Pay Request

Chairman Geisenheimer suggested this leave without pay be discussed in Executive Session.

- Study of Organization and Staffing of Administrative and Detective Divisions

Chairman Geisenheimer said the Board will begin discussion of the administrative and detective divisions and would like to start that process after Labor Day. He asked the commissioners to decide what they would like to discuss in that study.

**COMMISSIONER COMMENTS:** None

**MISCELLANEOUS CORRESPONDENCE**

Chief Jakubson reviewed a number of pieces of correspondence:

- a. Youth and Family Services complimented Officer Todd Curry for his compassionate interaction and calming effect on a resident of The Hearth who was disoriented.
- b. Thank you letter acknowledging the donation of stuffed bears by a resident
- c. Recognition of the efforts of Lt. Dobbin in alcohol prevention from Wine & Spirits Wholesalers of CT.

- d. MADD Certificate of Appreciation to Lt. Dobbin. The Chief noted six officers have in the past received such certificates for the arrests they have made.

The Chief noted the Department still puts out DWI patrols on weekends and continues patrolling The Surf Club. He also mentioned safety lime green polo shirts, which may be authorized for outside jobs or special events because they would make the officers highly visible.

#### **CHAIRMAN COMMENTS**

Chairman Geisenheimer wants all to know that the Department and the Police Commission take traffic very seriously - as our population increases, traffic violation issues increase with it. It is very important to study and take action on traffic areas to calm things down. He said he is happy to see the department is following up on these two specific complaints [Opening Hill and Middle Beach West]. There is a comprehensive study of traffic which we will use to reduce injury and property damage accidents. Asking all to be careful.

Peter Van Strum asked, since Opening Hill Road is narrow, what is the chance to reduce the speed to 25 MPH? Chief Jakobson said it has been 30 MPH for over 30 years. The population has increased but his gut reaction to the decrease is no. He is well aware of residents' concerns and even though there high speed anomalies, there is not an accident history although there is always a potential. He doesn't think reducing the speed will reduce the flow of traffic - it will still be the same amount. The Chief said he believes: a. people are being aware of the volume of cars on the road and they are cognizant of people on the roads; b. some enforcement activity on our part will make them comply. If you travel at 30 MPH, you will think you are crawling! If more and more people travel the posted limit he doesn't think there will be as many issues as they are currently. These issues have been discussed with the town engineers; the answer is not to reduce the speed limit.

The Chief asked the Chairman to consider a date change for the September meeting because neither he or Chris will be able to attend. He said he could get someone else to take the board minutes and have a lieutenant attend in his absence if the date cannot be changed. Chairman Geisenheimer said he is booked; the meeting will be held September 13, as scheduled.

**MOTION** by Smith, second by Cartledge to enter Executive Session at 9:41 PM. All in favor. None opposed. So moved.

#### **EXECUTIVE SESSION**

- Legal and Personnel Issues

**MOTION** by Geisenheimer, second by Smith to adjourn at 10:15 PM. All in favor. None opposed. So moved.

Minutes Accepted: September 13, 2007