# AGENDA POLICE MERIT COMMISSION Monday, May 23, 2022 9:00 a.m. Council Chambers

Municipal Building, 229 S. Second Street, Elkhart, IN 46516
<a href="https://coei.webex.com/coei/j.php?MTID=m1081af3c400874891884f80674d4a851">https://coei.webex.com/coei/j.php?MTID=m1081af3c400874891884f80674d4a851</a>

Meeting Number 2311 186 2280

Password Police22

- 1. Call to Order
- 2. Roll Call
- 3. Approve Agenda
- Approve Minutes- Regular Meeting April 25, 2022 & Regular Meeting May 9, 2022
- 5. Police Department
  - Request to Hire- Clayton A. Brown, Andrew J. Martin, & Dylan H. Vicary
  - Swearing in Ceremony
  - Decision in the Matter of Sgt. Andrew Rucker
- 6. Public Participation
- 7. Adjournment

# POLICE MERIT COMMISSION Monday, April 25, 2022

President James Rieckhoff called a regular meeting of the Police Merit Commission to order at 9:00 a.m., Monday, April 25, 2022. Clerk of the Commission Nancy Wilson called the role. Commissioners James Rieckhoff, Clifton Hildreth, Brad Billings and Thomas Barber attended in person. Jean Mayes joined the meeting in progress on WebEx.

### APPROVE AGENDA

On motion Brad Billings, seconded by Clifton Hildreth and carried 4-0, the agenda was approved as presented.

# APPROVE MINUTES-Regular Meeting April 11, 2022

On motion by Thomas Barber, seconded by Clifton Hildreth and carried 4-0, the Commissioners approved the Minutes from April 11, 2022 as presented.

# 3. POLICE DEPARTMENT

Assistant Chief Dan Milanese presented a Disciplinary Notice for Sgt. Dan Jones. He was issued a written reprimand for violating Policy 320.5.7(b) Efficiency. Jim Rieckhoff accepted the notification.

Assistant Chief Dan Milanese presented notification of the placement of Captain Andrew Whitmyer in the position of Captain in the Criminal Investigation Division. He went through the promotional process and was selected by the Review Board for this position. He officially began in this position on April 18, 2022. Jim Rieckhoff accepted the notification.

Assistant Chief Dan Milanese presented notification of the placement of Lt. Travis Hamilton in the position of Captain in the Services Division. He went through the promotional process and was selected by the Review Board for this position. He officially began in this capacity on April 18, 2022. Jim Rieckhoff accepted the notification.

Assistant Chief Dan Milanese presented two Change of Status promotions for Patrolmen that successfully completed their third year of service as police officers with the Elkhart Police Department. Ptl. Kaleb Shank and Ptl. Jordan Sears changed status from 2<sup>nd</sup> class P-3 to 1<sup>st</sup> class P-4. Jim Rieckhoff accepted the notifications and placed them on file.

### 4. ADJOURNMENT

On motion	by Clifton Hildreth,	seconded by Bra	ad Billings and	carried	4-0,
the City of Elkhart	, Indiana Police Me	erit Commission v	was adjourned	at 9:09	a.m

	James Rieckhoff, President
Attest:	Clifton Hildreth, Secretary

# POLICE MERIT COMMISSION Monday, May 9, 2022

President James Rieckhoff called a regular meeting of the Police Merit Commission to order at 9:19 a.m., Monday, May 9, 2022. Clerk of the Commission Nancy Wilson called the role. Commissioners James Rieckhoff, Clifton Hildreth, Brad Billings and Thomas Barber attended in person. Jean Mayes attended on WebEx.

## APPROVE AGENDA

On motion Brad Billings, seconded by Clifton Hildreth and carried 5-0, the agenda was approved as presented.

# 2. DISCIPLINARY HEARING- SGT. ANDREW RUCKER

Jim Rieckhoff said Sgt. Rucker is present, Chief Kris Seymore is present, City Attorney Rose Rivera is present, and Ed Merchant, Counsel for Sgt. Rucker is present on WebEx. Jim Rieckhoff said they have been thinking about the evidence presented for three days, and have a very difficult decision to make.

On motion by Jean Mayes, seconded by Thomas Barber and carried 5-0, the Police Merit Commission found that Sgt. Rucker engaged in conduct violating City Police Policies 307.3 entitled Officer Responsibilities, 307.3.2 (h) entitled When to Terminate a Pursuit, and 307.5 (c) entitled Pursuit Driving.

On motion by Brad Billings, seconded by Cliff Hildreth and carried 5-0, the Police Merit Commission demoted Sgt. Andrew Rucker from Sergeant to Corporal.

### 3. ADJOURNMENT

On motion by Jean Mayes, seconded by Clifton Hildreth and carried 5-0, the City of Elkhart, Indiana Police Merit Commission was adjourned at 9:25 a.m.

	James Rieckhoff, President
Attest:	Clifton Hildreth, Secretary



Rod Roberson Mayor

Kris Seymore Chief Police Department 175 Waterfall Dr. Elkhart, IN 46516

> 574.295.7070 Fax: 574.293.0679

May 18, 2022

Police Merit Commission Municipal Building 229 S. Second St. Elkhart, IN 46516

Dear Commissioners:

Prospective officer, Clayton A. Brown, has passed all of the required medical and psychological screenings, as well as the appropriate background searches, necessary to become employed with the Elkhart Police Department as a police officer. I am requesting that you will approve the hiring of this candidate and that he be sworn in on May 23, 2022.

If you have any questions, or would like further information, please do not hesitate to contact me.

Respectfully,

Kris Seymore Chief of Police

KS:kae



Rod Roberson Mayor

Kris Seymore Chief Police Department 175 Waterfall Dr. Elkhart, IN 46516

> 574.295.7070 Fax: 574.293.0679

May 18, 2022

Police Merit Commission Municipal Building 229 S. Second St. Elkhart, IN 46516

Dear Commissioners:

Prospective officer, Andrew J. Martin, has passed all of the required medical and psychological screenings, as well as the appropriate background searches, necessary to become employed with the Elkhart Police Department as a police officer. I am requesting that you will approve the hiring of this candidate and that he be sworn in on May 23, 2022.

If you have any questions, or would like further information, please do not hesitate to contact me.

Respectfully,

Kris Seymore Chief of Police

KS:kae



Rod Roberson Mayor

Kris Seymore Chief Police Department 175 Waterfall Dr. Elkhart, IN 46516

> 574.295.7070 Fax: 574.293.0679

May 18, 2022

Police Merit Commission Municipal Building 229 S. Second St. Elkhart, IN 46516

Dear Commissioners:

Prospective officer, Dylan H. Vicary, has passed all of the required medical and psychological screenings, as well as the appropriate background searches, necessary to become employed with the Elkhart Police Department as a police officer. I am requesting that you will approve the hiring of this candidate and that he be sworn in on May 23, 2022.

If you have any questions, or would like further information, please do not hesitate to contact me.

Respectfully

Kris Seymore Chief of Police

KS:kae

STATE OF INDIANA)	ELKHART CITY POLICE MERIT COMMISSION ) SS:
COUNTY OF ELKHART	)
IN RE THE MATTER OF:	)
SGT. ANDREW RUCKER	, )

### **DECISION**

Commission President James Rieckhoff called a Special Meeting of the Elkhart Police Merit Commission to order at 9:00 a.m., Thursday, May 5, 2022. Clerk of the Commission Nancy Wilson called the roll. Commissioners James Rieckhoff, Brad Billings, Clifton Hildreth, and Thomas Barber attended in person. Commissioner Jean Mayes attended on WebEx.

At the hearing Elkhart Police Chief Kris Seymore appeared in person with legal counsel Rose Rivera. Sergeant Andrew Rucker appeared in person with legal counsel Edward J. Merchant.

The purpose of the Special Meeting was to consider written allegations made by Chief Seymore that Sergeant Rucker had violated Elkhart Police Policies 307.3 (Officer Responsibilities), 307.3.2(h) (When To Terminate A Pursuit), and 307.5 (c) (Pursuit Driving).

The specific Policy violations arose as the result of Sergeant Rucker's actions during a high-speed pursuit while driving an Elkhart Police vehicle against the flow of traffic on Elkhart County Road 17, a semi-divided four-lane highway. The pursuit had been initiated by a Bristol Police Officer after an individual driving a motorcycle acted suspiciously and then fled from that officer. Sergeant Rucker joined the pursuit after hearing radio traffic between the Bristol officer and the Bristol dispatcher. During the pursuit drove both in the traffic lanes and on the shoulder of the road. He terminated his pursuit promptly upon being so ordered by his supervisor.

The Chief recommended that if the Commission found Sergeant Rucker to have committed misconduct as alleged, it should demote him from Sergeant to Corporal.

Sergeant Rucker denied that he had committed misconduct, contending that he had observed the Bristol officer as being the only officer in pursuit and joined to assist that officer. He entered the oncoming traffic lanes after the motorcyclist had done so to alert oncoming drivers of the potential danger facing them. He admitted that his speed exceeded 80 miles per hour and at one point was 100 miles per hour.

Both counsel made opening statements setting forth their views of the evidence to be presented. The City then presented five Elkhart Police officers as witnesses, namely, Chief Seymore, Sergeant Chad Odle, Lieutenant Karl Miller, Assistant Chief Dan Milanese, and Lieutenant James Wrathell. Sergeant Rucker presented as a witness for him Bristol Police Sergeant Dustin Lundgren, and he also testified on his own behalf. The parties submitted many documentary exhibits, and also video footage of the pursuit shot from Sergeant Rucker's viewpoint. Each Commissioner was given the opportunity to question each witness, although few such questions were asked.

Following the completion of the examination of witnesses, both counsel made final arguments. Ms. Rivera argued that the evidence established that Sergeant Rucker had committed misconduct as alleged and that termination of employment, rather than demotion, was the appropriate sanction to be imposed upon him.

Mr. Merchant argued that the policies at issue required Elkhart officers to use their discretion in beginning, continuing, and terminating any pursuit; that Sergeant Rucker had done so properly; and that Sergeant Rucker should be exonerated of any alleged misconduct. He also argued that in the event the Commission did find the commission of misconduct by Sergeant Rucker, demotion from his current was too great a sanction to impose on him under the existing circumstances.

After the arguments were completed, the President declared a recess, announcing that the Commission would convene an executive session on May 9 at 8:30 a.m. and that the public hearing would resume shortly after completion of the executive session.

On May 9, the executive session began at the announced time with all Commissioners present, Commissioner Mayes again present by WebEx. The session concluded shortly after 9:00 a.m. The public hearing began at 9:19 a.m. The parties and their attorneys were likewise present, with Mr. Merchant joining by WebEx. The President invited both counsel to offer any further remarks which they thought appropriate. Both counsel declined to do so.

Two motions were presented as follows:

- 1. Commissioner Mayes moved that the Commission find that Sergeant Andrew Rucker had engaged in the three specifications of misconduct alleged by the Chief. The motion was seconded by Commissioner Barber. The Clerk conducted a roll-call vote. The result was five Commissioners in favor and none opposed. The motion was therefore carried.
- 2. Commissioner Billings then moved that the Commission impose upon Sergeant Andrew Rucker a demotion in rank from Sergeant to Corporal. This motion was seconded by Commissioner Hildreth. The Clerk conducted a roll-call vote. The result was five Commissioners in favor and none opposed. The motion was therefore carried.

There having been no further matters presented for consideration, the President declared the hearing adjourned at 9:25 a.m.

Date:	_	James Rieckhoff, President Elkhart City Police Merit Commission
Attest:	Clifton Hildreth, Secretary	