

AGENDA
POLICE MERIT COMMISSION
Monday, March 13, 2023 9:00 a.m.
Council Chambers

Municipal Building, 229 S. Second Street, Elkhart, IN 46516

<https://coei.webex.com/coei/j.php?MTID=m5ca92e9bdb78ca7ac506ff2af81bdda2>

Meeting Number 2303 467 3672

Password Police23

- 1. Call to Order**
- 2. Roll Call**
- 3. Approve Agenda**
- 4. Approve Minutes- Regular Meeting February 13, 2023**
- 5. Election of Police Merit Commission 2023 Secretary**
- 6. Police Department**
 - Disciplinary Notice- Det. Joy Phillips**
- 7. Public Participation**
- 8. Adjournment**

POLICE MERIT COMMISSION
Monday, February 13, 2023

Vice-President Brad Billings called a regular meeting of the Police Merit Commission to order at 9:00 a.m., Monday, February 13, 2023. Clerk Nancy Wilson called the role. Commissioners Brad Billings, Clifton Hildreth and Thomas Barber attended in person. Jean Mayes joined on WebEx. Jim Rieckhoff was absent.

1. APPROVE AGENDA

On motion Jean Mayes, seconded by Thomas Barber and carried 4-0, the agenda was approved as presented.

2. APPROVE MINUTES- Regular Meeting January 23, 2023

On motion by Thomas Barber, seconded by Clifton Hildreth and carried 4-0, the Minutes from January 23, 2023 were approved.

3. POLICE DEPARTMENT

Chief Kris Seymore presented a request to hire Ethan Michael Pasternak. He 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. On motion by Jean Mayes, seconded by Clifton Hildreth and carried 4-0, the Police Merit Commission hired Ethan Michael Pasternak as a police officer for the Elkhart Police Department.

Chief Kris Seymore presented a request to hire Nicolas William Ragsdale. He 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. On motion by Thomas Barber, seconded by Jean Mayes and carried 4-0, the Police Merit Commission hired Nicolas William Ragsdale as a police officer for the Elkhart Police Department.

Vice-President Brad Billings swore them in as follows: "I swear that I will diligently, honestly, faithfully and impartially, perform all my duties as a police officer for the City of Elkhart according to the law. I will support and defend the Constitution of the United States: and the Constitution of the State of Indiana. I will observe the rules and regulations established by the Police merit Commission, and the Chief of Police of the Elkhart Police Department." They took a brief recess to take photos and congratulate them.

Chief Kris Seymore presented a Change of Status promotion for Cpl. Zachary Uhles to Investigator in the Criminal Investigation Division. On motion by Clifton Hildreth, seconded by Thomas Barber and carried 4-0, the PMC promoted Zachary Uhles to Detective.

Chief Kris Seymore presented a Change of Status promotion for Sergeant Drew Neese from probationary to permanent Sergeant. On motion by Jean Mayes, seconded by Clifton Hildreth and carried 5-0, the PMC changed the status of Sergeant Drew Neese from probationary to permanent Sergeant.

Chief Kris Seymore presented a Change of Status promotion for Sergeant Brian LaBelle from probationary to permanent Sergeant. On motion by Thomas Barber, seconded by Clifton Hildreth and carried 5-0, the PMC changed the status of Sergeant Brian LaBelle from probationary to permanent Sergeant.

Chief Kris Seymore presented a Change of Status promotion for Sergeant

POLICE MERIT COMMISSION

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Seth Watkins from probationary to permanent Sergeant. On motion by Clifton Hildreth, seconded by Thomas Barber and carried 5-0, the PMC changed the status of Sergeant Seth Watkins from probationary to permanent Sergeant.

Chief Kris Seymore presented a Disciplinary Notice for Cpl. Kaleb Shank. Cpl. Shank violated Policy 700.3.1 Care of Property. He was issued a 2-day suspension without pay and 60 days without his issued squad car. Brad Billings noted receipt of the disciplinary action.

4. ADJOURNMENT

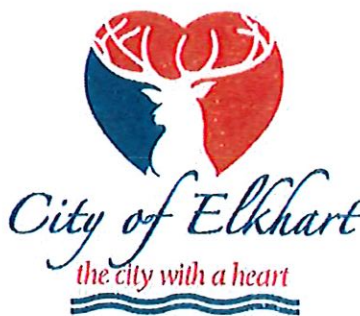
On motion by Jean Mayes, seconded by Clifton Hildreth and carried 4-0, the City of Elkhart, Indiana Police Merit Commission was adjourned at 9:22 a.m.

_____ Brad Billings, Vice-President

Attest: _____ Secretary

Rod Roberson
Mayor

Kris Seymore
Chief



Police Department
175 Waterfall Dr.
Elkhart, IN 46516

574.295.7070
Fax: 574.293.0679

March 3, 2023

Detective Joy Phillips #448
Elkhart Police Department
175 Waterfall Dr.
Elkhart, IN 46516

RE: Discipline Notice – IAI 22-11-09 and IAI22-11-10

Det. Phillips,

There were two investigations conducted, IAI 22-11-09 and IAI 22-11-10.

The following is a summary of investigation IAI 22-11-09 and its resolution:

FACTS: An internal complaint was generated on November 1, 2022 and investigated.

FINDINGS: The investigation recommended the allegation of violating Policy 320.5.6(a)(b)(c) Unauthorized Access, Disclosure or Use, and Policy 422.4.2(a)(b)(c)(d) Accessing BWC/Mobile In-Car Camera Files be sustained. I agree with the findings.

On February 9, 2023 the Captain's Review Board, consisting of Assistant Chief Milanese, Captain Moore and Lieutenant Wayne Bias, convened to review this case. Your choice was to not appear, but instead submitted a written statement by email, that was printed and reviewed by each board member, and placed with the investigation.

The investigation found that as a result of your position within the Elkhart Police Department you obtained reports, materials BWC/Mobile in-car camera files, or protected information involving an active investigation. You inappropriately and intentionally released it to unauthorized persons without authorization.

After reviewing this investigation, the Captain's Review Board stated that there is evidence to sustain these charges. It is the Captain's Review Board's recommendation that this investigation proved that you jeopardized the integrity of a criminal case by violating department policy.

The Captain's Review Board, unanimously, has recommended termination.

SUSTAINED: Policy 320.5.6 (a)(b)(c) Unauthorized Access, Disclosure or Use

SUSTAINED: Policy 422.4.2 (a)(b)(c)(d) Accessing BWC/Mobile In-Car Camera Files

ACTION TAKEN: Termination

There were two investigations conducted IAI 22-11-10 and IAI 22-11-09.

The following is a summary of investigation IAI 22-11-10 and its resolution:

FACTS: The office of Professional Standards opened an administrative investigation on November 1, 2022.

FINDINGS: The investigation recommended the allegation of violating Policy 320.5.8(a)(c)(d)(e)(i) Performance, Policy 320.5.9(f)(g)(j)(l) Conduct, and Business Ethics and Conduct (Elkhart City Policy) to be sustained. I agree with the findings.

On February 9, 2023 the Captain's Review Board, consisting of Assistant Chief Milanese, Captain Moore and Lieutenant Wayne Bias, convened to review this case. Your choice was to not appear, but instead submitted a written statement by email, that was printed and reviewed by each board member, and placed with the investigation.

The sworn testimony you provided in a grievance hearing was found to be false or misleading, and a misrepresentation of facts. This type of behavior has an adverse effect on the Elkhart Police Department including the morale, efficiency and operation of the department.

After reviewing this investigation, the Captain's Review Board stated that there is evidence to sustain these charges. It is the Board's recommendation that your dishonesty is a liability to be an effective and independent material witness in performing the duties of a police officer and that termination be the recommended action. This was a unanimous decision.

SUSTAINED: Policy 320.5.8(a)(c)(d)(e)(i) Performance

SUSTAINED: Policy 320.5.9(f)(g)(j)(l) Conduct

SUSTAINED: Business Ethics and Conduct (Elkhart City Policy)

ACTION TAKEN: Termination

Additionally, during the process of EPD putting you on administrative leave on November 1, 2023, you violated additional department policies that cannot go without mention, due to their gravity. You refused to hand over a personal recording device when ordered and you refused to wait for Professional Standards to communicate with the City Legal Department before leaving on Administrative Leave when ordered. At the time, and to this date, you were and are a paid employee, bound by EPD policies, and you refused to obey the direct lawful orders of your supervisors and command staff. Your actions constitute **neglect or disobedience of orders**, as those terms are used in I.C. §36-8-3.5-17(b)(2)(C).

In your own report to Indiana State Police you confessed that you made a habit of recording your interactions at work on your personal recording device. You additionally gave Indiana State Police a recording you had made of Elkhart Police activity recorded on November 1, 2022. Recording Elkhart Police Department activity unrelated to official department business using a personal communication device is in violation of Department Policy 701.5(d), (f), and 701.6(d) due to the sensitive nature of the on-going law enforcement investigations we conduct. While arguably the device you used was not a personal communication device, this behavior is not more tolerable depending on the device used. This behavior constitutes **conduct unbecoming a member** as the term is used in IC 36-8-3.5-17 (b)(H).

In reviewing the contents of your office, it was also discovered that you had a device plugged into the wall that appeared to be a cell phone charger that was actually a surveillance camera. On it, you had multiple video surveillance recordings made on November 1, 2022. Recording Elkhart Police Department activity unrelated to official department business using a personal communication device is in violation of Department Policy 701.5(d), (f), and 701.6(d) due to the sensitive nature of the on-going law enforcement investigations we conduct. While arguably the device you used was not a personal communication device, this behavior is not more tolerable depending on the device used. This behavior constitutes **conduct unbecoming a member** as the term is used in IC 36-8-3.5-17 (b)(H).

Kris Seymore
Chief of Police



I.C. 36-8-3.5-17(c) If the chief of the department, after an investigation within the department, prefers charges against a member of the department for an alleged breach of discipline under subsection (b), including any civilian complaint of an alleged breach of discipline under subsection (b)(2)(F), (b)(2)(G), or (b)(2)(H), a hearing shall be conducted upon the request of the member. If a hearing is requested within five (5) days of the chief preferring charges, the parties may by agreement designate a hearing officer who is qualified by education, training or experience. If the parties do not agree with the five (5) day period, the commission may hold the hearing or designate a person or board to conduct the hearing, as provided in the commission's rules. The designated person or board must be qualified by education, training or experience to conduct such a hearing and may not hold an upper level policy making position. The hearing conducted under this subsection shall be held within thirty (30) days after it is requested by the member.

Received by:

Det. Joy Phillips

Date Signed

C: Police Merit Commission
Captain Whitmyer
Professional Standards
Personnel File