

AGENDA
POLICE MERIT COMMISSION
Monday, May 8, 2023 9:00 a.m.
Council Chambers

Municipal Building, 229 S. Second Street, Elkhart, IN 46516
<https://coei.webex.com/coei/j.php?MTID=m0e13526a4e71902d3bb443109786d1c2>

Meeting Number 2313 927 6493
Password Police23

- 1. Call to Order**
- 2. Roll Call**
- 3. Approve Agenda**
- 4. Approve Minutes- Regular Meeting April 24, 2023**
- 5. Police Department**
 - Disciplinary Notice- Ptl. Kyle Macumber**
 - Promotion- Lt. Daniel Mayer**
- 6. Public Participation**
- 7. Adjournment**

POLICE MERIT COMMISSION
Monday, April 24, 2023

President Jim Rieckhoff called a regular meeting of the Police Merit Commission to order at 9:00 a.m., Monday, April 24, 2023. Clerk Nancy Wilson called the role. Commissioners Jim Rieckhoff, Brad Billings, Clifton Hildreth and Thomas Barber attended in person. Commissioner Jean Mayes attended on WebEx.

1. APPROVE AGENDA

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

2. APPROVE MINUTES- Regular Meeting April 10, 2023

On motion by Clifton Hildreth, seconded by Brad Billings and carried 5-0, the Minutes from April 10, 2023 were approved.

3. POLICE DEPARTMENT

Notice from the Mayor

Chief Kris Seymore read into the record a notice from Mayor Rod Roberson stating that effective Friday, April 28, 2023, Mayor Roberson appointed Assistant Police Chief Dan Milanese as the new Police Chief and Captain Andrew Whitmyer as the new Assistant Chief of the Police Department of the City of Elkhart. On behalf of the Commissioners, Jim Rieckhoff congratulated them and welcomed them.

Chief Seymore said he will miss this board. He said he appreciates all we have done together, and the way this board is set up, that is rare. It is a good model to follow in the future. The cross section of good human beings that make up this board have made it really easy for me as Chief to work within those confines. You are all straight shooters as I am, and I have appreciated the communication from all of you spearheaded by the Judge. It has been interesting and fun. He thanked the board for being great to work with. Jean Mayes thanked him for being a man of value. Jim remembered the day he was sworn in. Chief Seymore said he wanted to emphasize integrity, accountability, and transparency, Jim said all these years later, you succeeded. The community benefited from your teaching, training, and leadership.

Discipline Notice- Ptl. Kyle Macumber

Chief Kris Seymore presented a Disciplinary Notification for Ptl. Kyle Macumber. He violated Policy 309.5 Officer Response to calls, Safety Consideration.

The action taken was Twenty (20) Days Suspension Without Pay, 60 day loss of take Home Squad Car, and Attendance at Below 100 training.

Ptl. Macumber requested a hearing that was filed by his Attorney M. Elizabeth Bemis. Attorney Bemis said Ptl. Macumber would be out of the country from May 2 to May 16, 2023 and asked for the hearing to be later than May 16, 2023. Jim Rieckhoff said they would hold off on setting the date until the Attorneys could coordinate their schedules.

4. ADJOURNMENT

On motion by Jean Mayes, seconded by Thomas Barber and carried 5-0, the City of Elkhart, Indiana Police Merit Commission was adjourned at 9:16 a.m.

Jim Rieckhoff, President

Attest: _____ Clifton Hildreth, Secretary



City of Elkhart

Rod Roberson
Mayor

Dan Milanese
Chief

Police Department
175 Waterfall Dr.
Elkhart, IN 46516

574.295.7070
Fax: 574.293.0679

May 3, 2023

Kyle Macumber
175 Waterfall Drive
Elkhart, IN 46516

Re: Notice of Charges, Tentative Hearing Date and Rights

Dear Ptlm Kyle Macumber:

I have offered charges of misconduct against you pursuant to Ind. Code § 36-8-3.5-17. I am recommending to the Police Merit Commission that you be suspended from your position as Patrolman with the Elkhart Police Department for twenty (20) days unpaid, loss of take home vehicle for sixty (60) days as well as mandatory attendance of Below 100 training.

On February 15, 2023 you were on route to begin your shift, when you traveled recklessly at speeds exceeding 100 MPH and without due regard while responding to a call from your girlfriend telling you she had witnessed a car accident. Your lack of due regard occurred throughout your drive through the City, including on the following instances:

- Traveling down the center turn lane at 107 MPH at 3716 Cassopolis Street (the Dollar General); splitting traffic at Cassopolis and County Road 4 (the light by the Mobil gas station) by going in between vehicles in the turn lane and a vehicle in the right lane of travel through a red light;
- At the intersection of Cassopolis and Windsor Avenue (by Menards) you drive into the opposite lane of travel between two vehicles at 92 MPH.
- Going down the middle turn lane with traffic on both sides at Cassopolis near County Road 6 at 78 MPH, then driving South in the northbound lanes of Cassopolis at 90 MPH.
- Driving through the intersection of Cassopolis Street and Emerson Drive at 101 MPH.
- Reaching speeds of 115 MPH in the 2100 block of Cassopolis.
- Near the intersection of Cassopolis and Bristol, driving to the far right lane almost striking a white pickup at 58 MPH to turn right onto Bristol Street.

- At Bristol Street and Main Street driving through the intersection when the light for East/West is red at 81 MPH at 1445 hours.
- At Bristol Street and County Road 5, driving through the intersection at 81 MPH while the East/West stoplight is red.
- While driving in the middle turn lane on Bristol Street approaching County Road 10, traveling at 104 MPH in congested traffic.
- Driving into the opposite lane of travel to get through the intersection of Bristol Street and County Road 10. While driving through congested traffic at Nappanee Street and McNaughton Avenue Ptl Macumber has to slam on his brakes to avoid causing an accident in the turn lane going from 51 MPH to 33 MPH.
- Enters the Northbound lane of traffic on Nappanee Street going south at 55 MPH.

During your reckless driving throughout the City, you were not wearing your seatbelt and on the phone. You were not technically on duty at the time you responded to the scene of the crash, you were on your way in to shift. You did not communicate with dispatch to let them know you were responding to the scene of the crash. As it turned out, officers had already responded to the scene of the crash by the time you arrived. When you arrived on the scene at 14:47 hrs, crime scene tape was already up on scene to block traffic. The first unit on scene at the accident arrived at 14:41 hrs and 5 units were on scene by 14:45 hrs.

The Captains Review Board substantiated violations of the following policies:

- Policy 309.5: Safety Considerations (within policy 309 Officer Response to Calls)

Based upon these allegations, the offered charges of misconduct against you constitute:

1. Neglect of Duty, as that term is used in I.C. §36-8-3.5-17(b)(2)(A).
2. Conduct injurious to the public peace or welfare, as that term is used in I.C. §36-8-3.5-17(b)(2)(G).

In addition to the current concerns, you have the following history of past discipline:

- On March 15, 2022 in case number IAC22-1-2, you received a five (5) day suspension and corrective training for violation of Policy 307.3 for extremely high speeds during a pursuit. You also were not wearing your seatbelt at the time of the pursuit.

In addition to the history of past discipline, you have the following documented supervisor counselings:

- On May 18, 2022 a report was created by Lt. Travis Snider in Benchmark documenting a supervisor counseling on department policies and procedures and the importance of taking a complete initial report as a result of complaint IAC22-4-23.
- On June 13, 2022 a report was created by Captain Bryan Moore in Benchmark documenting a supervisor counseling given regarding report writing and timeliness as a result of complaints IAC22-5-30, IAC22-6-39, and IAC22-6-41 due to evidence not being submitted at day of collection as well as two reports and a Use of Force report not being done in a timely fashion.
- On January 12, 2023, a report was created in Benchmark by Supervisor Travis Barnes in reference to complaint IAC22-12-87. You were counseled regarding the importance of report writing and timeliness and advised that arrests will be completed same day, other report/packets will be completed before going on days off unless approved by supervisor.

Pursuant to Ind. Code 36-8-3.5-17(c) you may request a hearing on this matter. Your request has already been received and documented. Upon receipt of this letter by the Police Merit Commission, the Commission is required to conduct a hearing on this matter within thirty (30) days. The Commission is available to hear this matter on _____ at _____ AM/PM in the Common Council Chambers, Elkhart Municipal Building, 229 S. Second Street, Elkhart, Indiana. At that hearing, you are entitled to be represented by counsel, to call and cross-examine witnesses, to require the production of evidence and to have subpoenas issued, served and executed.

If the Board determines that you are indeed guilty of the misconduct alleged above, it will vote on your sanction. The Chief's recommendation is:

- 1) Suspension for twenty (20) days;
- 2) Loss of take home vehicle for sixty (60) days; and
- 3) Attendance of Below 100 training

I have been counseled that the City Legal Department will be requesting the Police Merit Commission suspend you for sixty (60) days and that you attend Below 100 training.

Sincerely,



Dan Milanese
Chief of Police

Certificate of Service

I swear under the penalty of perjury that I delivered a Notice of Hearing to Kyle Macumber by service upon Kyle Macumber in person or by a copy left at Kyle Macumber's last and usual place of residence on the following date _____, at least 14 days before the date set for the hearing.

Signature: _____

Date: _____

Printed Name: _____

Rod Roberson
Mayor

Kris Seymore
Chief



Police Department
175 Waterfall Dr.
Elkhart, IN 46516

574.295.7070
Fax: 574.293.0679

April 21, 2023

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

RE: Change of Status
Lt. Daniel Mayer #413

Dear Commissioners:

On, October 21, 2022 Daniel Mayer was promoted to the position of probationary lieutenant in the Patrol Division.

His supervisor, Captain Bryan Moore, reports that following routine reviews and oversight Lt. Mayer has successfully completed his probationary period. Lt. Mayer has shown leadership and problem solving abilities, and the ability to manage personnel. Captain Moore added that based on the performance that he has seen from Lt. Mayer he is confident he will continue to grow as a leader and supervisor.

At this time I formally request that his status be changed from probationary lieutenant to permanent with an effective date of 4-22-2023

Respectfully,

A handwritten signature in black ink, appearing to read "Dan Milanese", is written over a horizontal line.

Dan Milanese
Chief of Police

DM/lmk

c: Payroll
Personnel File
Lt. Mayer