

AGENDA
POLICE MERIT COMMISSION
Monday, June 10, 2024 9:00 a.m.
Council Chambers

Municipal Building, 229 S. Second Street, Elkhart, IN 46516
<https://coei.webex.com/coei/j.php?MTID=m57b29613f75e97b47eb201a68c87eabc>

Meeting Number 2301 014 4375
Password Police24

- 1. Call to Order**
- 2. Roll Call**
- 3. Approve Agenda**
- 4. Approve Minutes- Regular Meeting May 13, 2024**
- 5. Police Department**
 - Notice of Charges, Tentative Hearing Date and Rights- Cpl. Steven Jones**
- 6. Public Participation**
- 7. Adjournment**

POLICE MERIT COMMISSION
Monday, May 13, 2024

Vice-President Brad Billings called a regular meeting of the Police Merit Commission (PMC) to order at 9:00 a.m., Monday, May 13, 2024. Clerk Nancy Wilson called the role. Commissioners Brad Billings, Thomas Barber, and Clifton Hildreth attended in person. Jim Rieckhoff attended on WebEx. Jean Mayes was absent.

1. APPROVE AGENDA

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

2. APPROVE MINUTES: Regular Meeting March 25, 2024

On motion by Clifton Hildreth, seconded by Thomas Barber and carried 4-0, the minutes from March 25, 2024 were adopted.

3. POLICE DEPARTMENT

Chief Dan Milanese presented time and grade status promotions for Ptl. Dustin Fitzgerald, Ptl. Dylan Vicary, Ptl. Clayton Brown, and Ptl. Andrew Martin. Brad accepted them as communication.

Chief Dan Milanese presented a promotion for Ptl. Seth Youngblood to the rank of Corporal effective April 22, 2024. On motion by Clifton Hildreth, seconded by Thomas Barber and carried 4-0, the PMC promoted Ptl. Seth Youngblood to Corporal effective April 22, 2024.

Chief Dan Milanese presented a promotion for Ptl. Thomas Cripe to the rank of Corporal effective April 22, 2024. On motion by Thomas Barber, seconded by Clifton Hildreth and carried 4-0, the PMC promoted Ptl. Thomas Cripe to Corporal effective April 22, 2024.

Chief Dan Milanese presented a promotion for Ptl. Adam Jackson to the rank of Corporal effective April 22, 2024. On motion by Clifton Hildreth, seconded by Thomas Barber and carried 4-0, the PMC promoted Ptl. Adam Jackson to Corporal effective April 22, 2024.

Chief Dan Milanese presented a disciplinary notice for Cpl. Davin Hackett. He received a written reprimand for violating Policy 320.5.2(f) Ethics, Policy 320.5.8(i) Performance, Policy 703.4(a) Operating Requirements, City Ethics and Conduct. Brad Billings accepted the communication.

Chief Dan Milanese informed the Board that he placed Cpl. Steven Jones on paid Administrative Leave pending his recommendation to the Commission to terminate him. He has requested a hearing. Brad Billings accepted the notification.

4. ADJOURNMENT

On motion by Clifton Hildreth, seconded by Thomas Barber and carried 4-0, the City of Elkhart, Indiana Police Merit Commission was adjourned at 9:09 a.m.

Brad Billings, Vice-President

Attest: _____ Clifton Hildreth, Secretary



Rod Roberson
Mayor

Dan Milanese
Chief

Police Department
175 Waterfall Dr.
Elkhart, IN 46516

574.295.7070
Fax: 574.293.0679

June 3, 2024

Corporal Steven Jones
175 Waterfall Drive
Elkhart, IN 46516

Re: Notice of Charges, Tentative Hearing Date and Rights

Dear Corporal Steven Jones:

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 terminated from your position a Police Officer with the Elkhart Police Department.

On March 13, 2023, you were involved in a vehicle pursuit of an alleged burglary suspect that turned into a foot pursuit. During the pursuit you made a decision to block the subject fleeing on foot by maneuvering your department vehicle off the roadway and directly into close proximity to the fleeing individual on the right side of your vehicle and a shed like structure on the left side of your vehicle. According to the Axon Fleet Camera, your squad car left the roadway driving 21 miles per hour and increased speed to 24 miles per hour. Your squad car hit the suspect going 24 miles per hour. Your vehicle struck the subject fleeing on foot, causing the fleeing individual a fractured pelvis and multiple broken ribs, as well as what appeared to be a loss of consciousness.

Your body camera reveals the statements you made immediately after the incident, including the following dialogue:

You: Got 'em. Got 'em with my car.

You: So, I went to cut him off and he went in front of my vehicle.

Other officer: You went to cut him off?

You: Yeah, see, see how his tracks are here? I came right here; and he went in front of my squad right about here, clipped!

Other officer: He need medical attention?

You: Yes, I have a...he said his left hip hurts. I already have a ... we should have a medics on route.

You: Right here, it's right here.

You: Cause I was gonna cut him off right around here, so he could get him; and he just [click sound].

You: Unconventional but effective.

Elkhart Police Department (EPD) Policy 300.3.1 permits the use of reasonable force to effect a lawful arrest. The use of your vehicle to stop a fleeing individual amounted to a use of deadly force to affect the arrest. EPD Policy 300.4 on Deadly Force states:

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

(a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury.

(b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended.

During interviews, you provided no indication that you believed there was an imminent threat or risk of death or serious bodily injury prior to using your vehicle as an instrument of deadly force to stop the individual from fleeing.

Indiana Code 35-41-3-3, Use of Force Relating to Arrest or Escape, states an:

[o]fficer is justified in using deadly force only if the officer:

(1) has probable cause to believe that deadly force is necessary:

(A) to prevent the commission of a forcible felony; or

(B) to effect an arrest of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person; and

(2) has given a warning, if feasible, to the person against whom the deadly force is to be used.

In the instant case, you were attempting neither to prevent the commission of a forcible felony nor to effect the arrest of a person who posed a threat of serious bodily injury. For these reasons, the use of deadly force was not justified.

Furthermore, EPD Policy 309.5 Safety Considerations, states in pertinent part,

“Responding with emergency lights or siren does not relieve the operator of an emergency vehicle of the duty to continue to drive with due regard for the safety of all persons and property”

Additionally, on September 15, 2023 the City received a Notice of Tort Claim from the Duerring Law Office alleging an intent to file a tort claim and civil rights lawsuit against the City of Elkhart because of your actions during this incident.

The Captains Review Board substantiated violations of the following policies:

- Policy 300.3.1, Use of Force to Effect an Arrest
- 300.4, Deadly Force Applications

In addition, I sustained policy violation:

- 309.5, Officer Response to Calls/Safety Considerations for operating your vehicle in violation of Indiana Law, without due regard, and in a manner that ultimately placed your vehicle in a situation that caused unnecessary force to be used against the individual that was fleeing, causing serious bodily injury.

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

1. Conduct unbecoming a member as that term is used in I.C. §36-8-3.5-17(b)(2)(H).
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:

- March 2022, IAC22-1-3: On January 1, 2022, while having a civilian ride-along, you became involved in a vehicle pursuit as the second unit. At the time you had a civilian rider in your vehicle. You intended to disengage when other officers joined the pursuit but you did not, admitting to your supervisor that you got wrapped up in the pursuit. Civilian riders are prohibited from pursuits and your participation in the pursuit never should have begun with a civilian rider. Allegations that you violated policies 307.3.1(m) When to Initiate a Pursuit and 405.7 Members Responsibilities were sustained. You received a written reprimand.

In addition to the history of past discipline, you received a supervisor counseling for the following:

- On October 14, 2020 a Citizen Complaint was generated by Supervisor Eric Sommer stating that on October 3, 2020 after a pursuit was terminated you continued to follow the vehicle and not follow traffic laws as required after terminating a pursuit. You attempted to stop a vehicle with you your lights and siren activated on Johnson street south of Jackson. The pursuit was terminated. You continued following the suspect vehicle with your lights activated until you were almost to the Intersection of Johnson and Elkhart. Prior to coming to the intersection of Johnson and Elkhart you turned your overhead lights off. The traffic lights at this intersection were red for north/south traffic. You continued through the red light without any emergency lights activated. You followed the car at a distance, eventually turning west onto Grant street. At the intersection of Grant and Howard, you proceeded through the stop sign without slowing and without any emergency lights activated. At the intersection of Grant and Dearborn you again ran the stop sign while turning south on Dearborn. At the intersection of Dearborn and Erwin you

again ran the stop sign with no emergency lights activated. At this point you stopped trying to follow the vehicle. For this you received a supervisor counseling.

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, unless otherwise agreed by the parties. 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: Termination of employment with the Elkhart Police Department.

Sincerely,



Dan Milanese
Chief of Police

Certificate of Service

I swear under the penalty of perjury that I delivered a Notice of Hearing to Steven Jones by service upon Steven Jones in person or by a copy left at Steven Jones'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: _____