

TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE ADMINISTRATIVE & PERSONNEL COMMITTEE MEETING HELD ON TUESDAY AND WEDNESDAY, MAY 4 AND 5, 2010

I. CALL TO ORDER AND ROLL CALL

The meeting of the Administrative and Personnel Committee was called to order at 9:00 a.m. on May 4, 2010, in the Emergency Operations Center, 355 S. County Road, Palm Beach. On roll call, Chair Richard M. Kleid and Committee Member Rosow were present.

Attorney Eugene Gibbons represented Mr. Keith Munyan; Attorney Peter Sampo represented the Administrative and Personnel Committee; Attorney John Randolph represented the Town of Palm Beach on May 4, 2010 and Attorney Margaret Cooper represented the Town of Palm Beach on May 5, 2010.

II. APPROVAL OF AGENDA

The Agenda was approved as printed.

III. PRESENTATION OF POLICE CHIEF KIRK W. BLOUIN'S CASE [JOHN C. RANDOLPH, ATTORNEY]

Town Attorney John Randolph provided exhibits and noted that he would not make an opening statement. The witnesses were sequestered and ordered not to discuss the case or any matters relating to the case while outside of the hearing. Town Clerk Cunningham administered the oath to those providing testimony.

The following witnesses were called:

- Major Daniel Szarszewski
- Sergeant Jason Vega
- Sergeant Jennifer Sandman
- Chief of Police Kirk W. Blouin
- Paula Salanitri
- Captain Jeffery A. Trylch
- Officer Levente Henter
- Christine Cunningham
- Keith Munyan

1 In addition, Police Chief Exhibits 1-14 were introduced, along with Exhibits 1-33 on behalf of
2 Mr. Munyan.

3
4 Attorney Gibbons reserved his opening statements until he presented his case. He was able to
5 cross examine each witness as they took the stand.
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7

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11 IV. PRESENTATION OF KEITH MUNYAN'S CASE [EUGENE GIBBONS, ATTORNEY]

12
13 Town Clerk Cunningham administered the oath to those providing testimony.

14
15 The following witnesses were called:

- 16 • Jessica Lin Garcia
- 17 • Police Chief Kirk Blouin
- 18 • Dorothy Harawas

19
20 *The Administrative and Personnel Committee Meeting recessed at 5:45p.m. on May 4, 2010,*
21 *until 1:00 p.m. on May 5, 2010.*

22
23 CALL TO ORDER AND ROLL CALL

24 The meeting of the Administrative and Personnel Committee was called to order at 1:00 p.m. on
25 May 5, 2010, in the Emergency Operations Center, 355 S. County Road, Palm Beach. On roll
26 call, Chair Richard M. Kleid and Committee Member David Rosow were present.

27 Attorney Gibbons continued with witness testimony.

28
29 Office Manager Raychel Houston administered the oath to all those who would be providing
30 testimony.

31
32 The following witnesses provided testimony:

- 33 • Major Elmer Gudger (retired)
- 34 • Captain Frederick Hess (participated via telephone)

35
36 Town Clerk Cunningham administered the oath to all those who would be providing testimony.

- 37 • John R. Munyan
- 38 • Sgt. Michael Bates (participated via telephone)
- 39 • Katalin Munyan

40
41 There were no further witnesses per Attorney Gibbons.
42
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V. REBUTTAL BY POLICE CHIEF KIRK W. BLOUIN [JOHN C. RANDOLPH, ATTORNEY]

Chief Blouin did not re-take the stand due to an objection from Attorney Gibbons. The Committee indicated that they did not need to hear any further testimony from Chief Blouin.

Both sides provided their summations to the Committee.

VI. CONSIDERATION BY THE ADMINISTRATIVE AND PERSONNEL COMMITTEE

Chairman Kleid announced that the Committee would now go into Executive Session to discuss the findings. He asked Attorney Sampo to explain to the Committee what their directive was.

Attorney Sampo instructed the Committee that their charge was to determine, in essence, whether there was just cause for Mr. Munyan's termination from employment. That would require them to make findings that were supported by substantial competent evidence of policy violations as presented by the Police Chief Blouin throughout the course of the proceedings. Attorney Sampo stated that evidence had been presented, by way of hearsay or second-hand information. In a proceeding like this, hearsay could be considered, but it cannot alone serve as the basis for any finding. It could only support other evidence that is considered competent and substantial evidence to support such a finding. If the Committee determined that there was competent substantial evidence to support the allegations of policy violations, then the Committee's next step would be to determine, in their judgment as a Committee, if termination was the appropriate outcome. If the Committee felt there was insufficient evidence, or no evidence of policy violations, the Committee could recommend to the Town Council to reverse the decision. They also have the option of concluding that there were policy violations but that termination was not the appropriate consequence, and instead something else should have happened. The Committee could offer a counter recommendation to the Town Council. At the conclusion of the process, there would need to be written recommendations and findings. Attorney Sampo was informed that Town Clerk Cunningham would prepare a report to present to the Town Council for next week's meeting.

Committee Member Rosow complimented both attorneys for their excellent work over the past two days. Dealing with a person's career and future is not an easy thing to do. From his experience, he had many people work for him during his career. He found that the procedures provided for police officers, and grievances and so forth, are much more than a private businessman would ever tolerate.

Committee Member Rosow stated that he would have fired Mr. Munyan for three reasons:

1. The withholding of driver licenses
2. The obscene note that Mr. Munyan wrote that was part of a "screenplay", was absolutely disgusting and vulgar. Police officers are held to a higher standard.

1 3. The conversation, irrespective of the timing of it, to "get people and to take them down one by
2 one".
3

4 As someone who carries a gun, and a taser, just found the threats by a police officer, especially
5 to a civilian, would be worrisome. The Town expects a level of service above the level of service
6 in other jurisdictions. We chose to live here because we believed that our men in blue, both fire
7 and police, are held to a higher standard than they expect from other municipalities. He noted
8 that Mr. Munyan had been a police officer for sixteen years. Committee Member Rosow trusted
9 that his police department has his interests at heart. He noted that there was confusing testimony
10 where Sgt. Vega put words into Officer Henter's mind. Everyone is influenced by words around
11 them. He has used some of Chairman Kleid's words in Town Council meetings. There was a lot
12 of effort to obfuscate the fundamental charges.
13

14 Committee Member Rosow stated that after he read Sergeant Sandman's report, he threw out the
15 potential child molestation charge and it did not weigh on his mind. He did not correlate that
16 with the other charges. More than fifty percent of the time was spent listening to that particular
17 issue, whereas there were a lot of other issues that came to light during the investigation. As a
18 police officer, you should know that often an investigation will morph into something larger. It is
19 similar to an attorney taking a deposition and uncovering new information. That was what often
20 happens during an investigation. He was not impressed that this somehow morphed into
21 retaliation. While all investigations have flaws, Committee Member Rosow felt the investigation
22 was fairly conducted.
23

24 Chairman Kleid also complimented both sides. He stated that he had previously been on several
25 Administrative Committees, and by profession was an attorney. He felt there was an excellent
26 presentation on behalf of the Town and an equally vigorous defense of Mr. Munyan.
27

28 With respect to the allegations, Chairman Kleid found that there was no credible evidence of
29 sexual misconduct with a minor. He did believe, however, that Mr. Munyan did make
30 statements to Officer Henter about a relationship with a minor, but in the final analysis felt it
31 may have been a fantasy remembrance or part of male braggadocio. There was evidence to
32 support a history of exaggeration by Mr. Munyan.
33

34 Chairman Kleid stated there was evidence to support a finding of omissions on Mr. Munyan's
35 job application and being deceptive in his answers to questions asked during the interrogation
36 process. Particularly troubling to Chairman Kleid was Mr. Munyan's omission to report that he
37 had applied to the Delray police department when it appeared that application was submitted
38 only several days prior to his application to Palm Beach. In mitigation of that, there was no
39 evidence that Mr. Munyan's omissions were deliberate. There was no evidence that any
40 information that would have been obtained from those omissions, would have impacted hiring or
41 non-hiring.
42

43 Chairman Kleid continued that it appeared from the evidence that Mr. Munyan was regarded as a
44 "good cop". This was, in fact, reiterated when he was promoted to sergeant. Chairman Kleid

1 believed there was evidence to support that Mr. Munyan did, against orders, intervene in the
2 internal affairs investigation and that he did make threats against individuals in the department.

3
4 In mitigation, Chairman Kleid felt that the charge of sexual misconduct with a minor did put
5 great stress on Mr. Munyan and may have accounted for some of his improper behavior. He
6 believed Chief Blouin's decision to terminate the employment of Mr. Munyan was in some way
7 colored by the sexual misconduct charge and his prior disciplinary incidences.

8
9 The charges of untruthfulness and/or deceptive responses during the investigation were
10 supported by the evidence. The charges of improper interference during the internal affairs
11 investigation and threats made were supported by the evidence in Chairman Kleid's opinion.
12 Chairman Kleid had reservations about the discipline that was handed out to Mr. Munyan only a
13 few days before his pension vested. He did not feel the punishment fit the crime. Perhaps a
14 demotion in rank, or a suspension without pay for a longer period, might have been more
15 commensurate with the infraction.

16
17 However, Chairman Kleid stated that he was reluctant to recommend to the full Town Council
18 that the termination be overturned. The reason was that it is important that police department
19 employees work together, and there be harmony within the department. Too much had been said
20 already, employees of the police department have testified and the Chief has rendered a decision.
21 If Palm Beach were a larger department, he might have considered a transfer to another borough,
22 as in the New York City Police Department. The reinstatement of Mr. Munyan would not be
23 good for a harmonious work force, both for Mr. Munyan and the other employees. He would like
24 to see a compromise solution worked out between Human Resources and Mr. Munyan.

25
26 Chairman Kleid proposed the following as a compromise:

- 27
- 28 • Mr. Munyan submit a resignation from the police department effective after the date he
 - 29 was vested to receive his pension.
 - 30 • Enter into an agreement with the Town stating he would not commence any legal actions
 - 31 against any employee, department, or the Town of Palm Beach.
- 32
33

34 Chairman Kleid announced that there was a difference of opinion on the Committee, but
35 fortunately there were five people in the Town Council that would hear and make a decision. He
36 asked Attorney Sampo for instructions as to how to proceed. Committee Member Rosow said
37 that with other Town Committees, when there were split decisions, both options were provided
38 and the full Town Council would vote upon each recommendation.

39
40 Attorney Gibbons indicated that he was not versed in the procedures of the Palm Beach Town
41 Council and asked if he would be permitted to speak. Chairman Kleid announced that public
42 comments are permitted up to three minutes at the beginning of the meeting, or you could wait
43 until that particular agenda item and speak for three minutes then. Chairman Kleid stated that
44 the Committee will present its report to the town Council and although the Committee agreed on
45 the findings, they disagreed on the recommendations. Attorney Gibbons indicated that he had no

1 objections to having two recommendations. Attorney Cooper clarified that the Committee
2 agreed on the termination but disagreed on the settlement. Chairman Kleid re-stated that they
3 both agreed there were findings based on certain evidence and they also felt the decision of
4 issuing a punishment was justified. They disagreed on what that punishment should be.

5
6 *The Committee took a short recess to determine the proper findings to present to the Town*
7 *Council.*

8
9 Attorney Sampo reviewed the issue and announced the fact that there were no objections from
10 either party in the proceedings to have two recommendations within the Committee as to the
11 ultimate outcome. The Town Council will have to make a determination on the full disposition.

12
13 Attorney Sampo said they would next put together the findings and have them transcribed into a
14 report for the Town Council. Committee Member Rosow clarified that the Town Clerk would be
15 able to also provide the written findings, that then could be verified by the Court Transcript.

16
17 Based on the deliberations and his study of the record, Attorney Sampo announced the following
18 findings which were agreed to by both Committee Members:

19
20 **The Town of Palm Beach Administrative and Personnel Committee Findings**

21
22 On May 4 and 5, 2010, the Town of Palm Beach's Administrative and Personnel Committee
23 ("Committee") met and conducted a hearing pursuant to Town of Palm Beach Code of
24 Ordinances, Chapter 82, Article III for the purpose of resolving the grievance of Keith Munyan
25 filed March 15, 2010 regarding his termination from employment.

26
27 Having met and considered the evidence presented at the hearing, as well as argument of
28 Counsel, the Committee makes the following findings and recommendations:

- 29
30 1. On July 27, 2009, the Town's Police Department initiated a Professional Standards
31 Investigation based on allegations about former Sgt. Keith Munyan contained in a
32 memorandum dated July 24, 2009 from Officer Levente Henter.
- 33
34 2. On December 1, 2009, the complaint against Mr. Munyan was amended to include
35 additional allegations involving Sections 4-1.4 and 6-6 of the Town of Palm Beach
36 Employee Personnel Manual and Town of Palm Beach Police Department General Order
37 IV-4,III,61; General Order IV-4,III,69 and General Order IV-4,III.
- 38
39 3. After an investigation conducted by Sergeant Jennifer Sandman, a report was issued by
40 the Town's Professional Standards Department dated January 27, 2010. The report
41 summarized the findings of the investigation with regard to the allegations against Mr.
42 Munyan and was forwarded to Police Chief Kirk Blouin.
- 43
44 4. Chief Blouin received the information presented in the report and issued a pre-
45 disciplinary determination notice to Mr. Munyan on February 10, 2010. Thereafter, Chief

Blouin convened a pre-disciplinary determination meeting on February 25, 2010, which was attended by Mr. Munyan and his attorney.

5. Following the conclusion of the pre-disciplinary determination meeting, Chief Blouin issued a Notice of Termination dated March 2, 2010. Pursuant to this notice, Chief Blouin terminated Mr. Munyan's employment for the reasons stated therein including Personnel Manual Section 6-6 (c) (d) (e) (g) and (j); General Order IV- 4.III.61: harassment; and General Order IV-4.III.109: untruthfulness.
6. Prior to his termination from employment, Mr. Munyan had received discipline from the Police Department consisting of a two day suspension in May of 2005 for failure to turn in six Driver Licenses and one Identification Card after lawfully seizing them, and a Level 1 reprimand on December 29, 2009 for failure to report back to training after instructed to do so (Violation of General Order IV-4, III, 38: duty, tardiness (failure to appear). Mr. Munyan also received a commendation in 2008, along with several other employees, for their response to a house fire.
7. Town of Palm Beach Police Department General Order IV-4, III, 109 provides "Untruthfulness. Police Department personnel shall not knowingly make false statements or untrue statements except as authorized in the performance of duties and as necessary for maintaining covert operation during investigation of criminal activities."

With regard to this issue, the Committee finds that Mr. Munyan was untruthful in violation of this General Order with regard to the following issues:

1. With regard to the assertion that Mr. Munyan was untruthful in failing to disclose on his application a prior applications including to Delray Beach Police Department, the Committee finds that Mr. Munyan was untruthful.
2. With regard to the assertion that Mr. Munyan untruthfully denied the conversations with Officer Henter reported in his July 24, 2009 memorandum, the Committee finds that Mr. Munyan was untruthful in denying making the statements.
3. With regard to the assertion that Mr. Munyan was untruthful when he denied disclosing information regarding the ongoing Professional Standards Investigation to Patrol Office Assistant Paula Salantiri, the Committee finds that Mr. Munyan was untruthful.
4. With regard to Mr. Munyan's assertion denying that he had made threats to police department personnel, in a conversation with Patrol Office Assistant Paula Salantrini, the Committee finds that Mr. Munyan was untruthful.

Accordingly, the Committee finds Mr. Munyan violated General Order IV-4, III, 109.

- 1 8. Town of Palm Beach Police Department General Order IV-4, III, 61 provides
2 "Harassment. Police Department Personnel shall not use their official position to harass
3 directly or indirectly, threaten or coerce any person." With regard to this issue, the
4 Committee finds Mr. Munyan did threaten personnel of the police department during the
5 course of the Professional Standards Investigation.

6
7 Accordingly, the Committee concludes that Mr. Munyan did, in fact, violate General
8 Order IV-4, III, 61 harassment.

- 9
10 9. Town of Palm Beach Employee Personnel Manual Section 6-6 (e) provides for discipline
11 in the event "the employee has failed to obey any proper and lawful order or directive
12 given by a superior, or as otherwise been insubordinate".

13
14 With regard to this issue, the Committee finds Mr. Munyan did violate this provision
15 when he disclosed information relating to the Professional Standards Investigation
16 against him while the investigation was pending, in violation of a directive given him
17 prohibiting such conduct.

18
19 The Committee finds that Mr. Munyan did violate Employee Personnel Manual Section
20 6-6 (e).

- 21
22 10. Town of Palm Beach Employee Personnel Manual Section 6-6 (c)(d)(e)(g)(j).

23
24 With regard to this issue, the Committee finds Mr. Munyan did violate these sections.

- 25
26 11. In making its findings, the Committee notes that Mr. Munyan's testimony at the hearing
27 conflicted with the testimony of other witnesses in a number of instances. These
28 witnesses included Sergeant Vega, Officer Henter, Patrol Office Assistant Paula Salanitri
29 and Christine Cunningham. Based on the demeanor of the witnesses, the weight of the
30 evidence, motive and other factors regarding the witnesses' testimony, the Committee
31 resolves those credibility determinations against Mr. Munyan and in favor of the
32 conflicting testimony provided by the other witnesses.

- 33
34 12. Mr. Munyan's addendum to his grievance claims a violation of due process with regard
35 to his pre-discipline notice, which identified a charge for untruthfulness "not under
36 oath". With regard to this issue, the Committee finds that the notice erroneously
37 identified "not under oath" as the source for the untruthful statements at issue in that
38 section of the notice, when in fact, the statements at issue were in fact made under oath.
39 This error was subsequently corrected. However, this Committee finds the error to have
40 been harmless since it was apparent that through his lawyer, Mr. Munyan addressed each
41 substantive issue of untruthfulness at the pre-determination hearing notwithstanding the
42 error.

43
44 **The Town of Palm Beach Administrative and Personnel Committee**
45 **Recommendations**

1
2 A. Based upon these findings, Chairman Kleid concludes there was just cause for
3 punishment of Mr. Munyan. In mitigation of the charge there were omissions in Mr.
4 Munyan's application for employment to the police department, that there was no
5 evidence presented that the omissions were deliberate and that there was no evidence
6 that any information obtained would have had any influence on his being hired. It
7 also appeared from the evidence that Mr. Munyan was regarded as a good policeman
8 and was in fact, promoted to sergeant. With respect to the finding that Mr. Munyan
9 did, against orders, interfere in the internal investigation and that he did make threats
10 against individuals in the department, in mitigation, Chairman Kleid believed that the
11 charge of sexual misconduct with a minor did put great stress on Mr. Munyan and
12 may account for some of his improper conduct. In mitigation, Chairman Kleid further
13 believed that Police Chief Blouin's decision to terminate the employment of Mr.
14 Munyan was in some way colored by the sexual misconduct charge and his past
15 disciplinary incidents, some of which were found to be unfounded. With respect to
16 the allegation that Mr. Munyan related to Officer Henter a graphic description of
17 sexual misconduct with a minor may have been a fantasy remembrance, and/or a
18 product of male braggadocio. This was supported by testimony to the effect that Mr.
19 Munyan has a history of exaggeration.

20
21 Chairman Kleid had reservations about the punishment handed out, namely
22 termination of employment, days before Mr. Munyan's pension benefits vested. He
23 did not feel that the punishment fit the crime, perhaps a demotion in rank, or a
24 suspension in pay would be more commensurate. He proposed an alternative
25 suggestion and the reason why he has to leave the employment of the Police
26 Department. However, he was reluctant to recommend to the full Town Council that
27 the termination be overturned, and that Mr. Munyan be reinstated to the police
28 department with instructions to impose a different penalty than termination. The
29 reason for that was that too much has already been said, employees of the department
30 have testified and the Chief has rendered a decision. The reinstatement of this officer
31 would not be good for a harmonious work force, both from the perspective of Mr.
32 Munyan and the department. He therefore would like to see a compromise solution
33 worked out by Human Resources and Mr. Munyan. He suggested that Mr. Munyan
34 submit his resignation to be effective after his pension vests, and that he agree to not
35 bring any lawsuit relevant to this proceeding against any employee of the Town of
36 Palm Beach, or any department within the Town of Palm Beach, or the Town itself.

37
38 On the issue of whether the findings constitute just cause for termination, there was a
39 different recommendation from Committee Member Rosow.

40
41 B. Committee Member Rosow concludes there was just cause for termination for Mr.
42 Munyan's employment pursuant to Section 6-6 of the Town of Palm Beach Employee
43 Personnel Manual. Committee Member Rosow recommends that Chief Blouin's
44 decision be upheld by the Town Council, based upon the following considerations
45 and findings:

Committee Member Rosow believed there had been a pattern of infractions which he found to be intolerable:

- Withholding of Driver Licenses and Identification Cards, the subject of the 2005 investigation should have, of itself, been cause for dismissal
- The obscene note which was also discussed in 2005, although determined to be unfounded, in his mind, did not stand the test of an officer in the police department in Palm Beach.
- The threats against members of the police department to "take them down" were dangerous and inexcusable. A police officer must at all time exercise restraint in his actions and words. Mr. Munyan did not exercise restraint in his words.
- The Town of Palm Beach residents expect and deserve to be served by people in our department who understand the importance of their character and how it impacts the lives of all of our residents.

Therefore, Committee Member Rosow recommended the Town Council affirm Chief Blouin's determination of dismissal.

Attorney Gibbons clarified that one of the recommendations was for just cause for termination and the other, an alternative to that recommendation. Committee Member Rosow indicated the process of how to proceed with the Town Council if he disagreed with any of the proposed settlement.

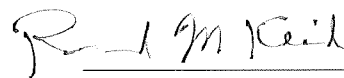
VII. ANY OTHER MATTERS

There were none.

VIII. ADJOURNMENT

There being no further business, the Administrative and Personnel Committee Meetings of May 4 and 5, 2010 concluded at 5:35p.m. on May 5, 2010.

APPROVED:



Richard M. Kleid
Chairman

**A verbatim transcript is also available from this meeting.*