



EAST HAVEN DEPARTMENT OF POLICE SERVICES

471 NORTH HIGH STREET • EAST HAVEN, CONNECTICUT 06512

Mayor Joseph Maturo, Jr.

Honorable Board of
Police Commissioners

HONORABLE BOARD OF POLICE COMMISSIONERS SPECIAL MEETING MINUTES

JANUARY 22, 2019 AT 7:00 PM
EAST HAVEN POLICE DEPARTMENT
471 NORTH HIGH STREET
EAST HAVEN, CT

COMMISSIONER(S) PRESENT: Chairman William Illingworth, Vice Chairman Joseph DiSilvestro, Commissioner Eduardo Torrealba, Commissioner Paul Carbo

COMMISSIONER(S) ABSENT: Commissioner Dawne Flynn

ALSO PRESENT: Chief Edward Lennon, Deputy Chief James Naccarato, Professional Standards/IA Officer Detective Robert Brockett, Attorney Joseph Zullo, Stephen M. Sedor, Esq. (Pullman & Comley, LLC), Officer Vincent Ferrara, Daniel Healy, Esq. (Pattis & Smith Law Firm), Cheryl Ferrara, Howard Ferrara, Michele Black, Leslie Mordarski, Marie Mordarski, Steve Tracy, Ken Dixon (New Haven Register), Cheryl Damato (Certified Court Reporter)

Chairman Illingworth called the meeting to order at 7:12 PM.

[Note: Meeting delayed awaiting the arrival of defendant Officer Vincent Ferrara]

1. Pledge of Allegiance
2. Moment of Silence
3. Roll Call – Quorum obtained
4. Disciplinary hearing regarding Officer Vincent Ferrara related to Internal Affairs Investigation 17-13

Chairman Illingworth stated the purpose of this meeting is to resume deliberations upon advice of counsel and then render a decision.

Chairman Illingworth acknowledged Attorney Healy from Pattis & Smith Law Firm representing Officer Vincent Ferrara and asked if the deliberations should be private or public. Attorney Healy, on behalf of his client, stated, “in public, please.”

Attorney Zullo began by explaining that his role is to ensure that the Board understands their duties pursuant to the presentation of allegations laid out by Attorney Sedor which may constitute violations of the Town and Police Department’s Policies and Procedures manual. It is their duty to review that presentation to determine whether or not Attorney Sedor satisfied and met the burden of proof to substantiate the charges of misconduct. Then, if violations are found, evaluate the appropriate discipline for each of those alleged acts of misconduct. The Disciplinary Matrix (209.2) is used to ensure that all discipline that is meted out is fair and

consistent. The Matrix lays out various levels of discipline ranging from least to most serious, “A” (verbal/written reprimand) to “D” (termination). The Board would need to determine where each alleged act of misconduct falls on the Matrix, to determine what the presumptive discipline is, and then to determine if there are any aggravating or mitigating factors with respect to each alleged act of misconduct as spelled out in the policy (page 7); Mitigating factors may include but are not limited to that the conduct was not premeditated; the employee had a secondary or minor role; the employee was forthright and truthful during the investigation; the employee accepted responsibility for his/her conduct; Aggravated factors can include but are not limited to that the conduct was premeditated; the conduct involved gross negligence or recklessness; the employee should have understood the consequences based on length of service, training, etc.; the employee was not forthright or truthful during the investigation; serious consequences or injury occurred or could have occurred as a result of the misconduct; and the misconduct was committed with malicious intent or for personal gain. It is also important to note that other factors should be considered to include but are not limited to the effect on the integrity of the Department, degree of culpability, prior discipline history, severity of misconduct, training, and length of service. When evaluating discipline along the Matrix, the key to multiple allegations, is to base the deliberations on the most serious offense, considering the other allegations as aggravating factors, after doing that, then taking into account if there are any mitigating factors.

Chairman Illingworth asked if any Commissioners had any questions. There were no questions.

Chairman Illingworth then read aloud the list of charges:

Use of Department Email for Inappropriate Purposes that Violate EHPD Policies: The charges against you allege that you used the EHPD email system to send two (2) pictures of nude women to your home email account; and four (4) pictures of partially nude women in their bras and/or underwear in sexually suggestive positions. These emails were sent on September 29, 2015, April 27, 2017, May 24, 2017 (2 photographs), May 25, 2017 and August 2, 2017.

In addition, you used your EHPD email to send approximately 24 Connecticut Intelligence Center (“CTIC”) bulletins to your personal email. This conduct constitutes a violation of EHPD Policies and Procedures – there are ten (10) violations listed.

Untruthful and/or Misleading Responses to the IA Officer that Violate EHPD Policies: During your interview with the IA Officer on December 14, 2017, you are alleged to have given untruthful and/or misleading responses when questioned. This includes the following responses:

- You repeatedly stated that you did not send the pictures of the nude and partially nude women through your EHPD email, while the investigation revealed that you did send them through such email.
- During your interview on December 14, 2017, you initially stated, untruthfully, that you did not know the women who were in the photographs that you sent via your EHPD email. However, the investigation revealed that you knew two (2) of the women who were in five (5) of the six (6) photographs as friends and/or acquaintances. These two (2) woman stated during the investigation that they were in fact friends and/or acquaintances of yours. The investigation further revealed that one (1) of these women sent you four (4) of the six (6) pictures herself.
- You involved yourself on or about April 9, 2017 in an investigation involving the woman identified in one (1) of the photographs identified above. This raised the question of whether

you had engaged in a conflict of interest. During your interview on December 14, 2017, you gave misleading responses as to how you became aware of the incident on that night. However, the investigation revealed that you were contacted directly by the woman and that you were parked in close vicinity to the woman's residence that evening for more than an hour.

This conduct constitutes a violation of EHPD Policies and Procedures – there are three (3) violations listed.

Possible Conflicts of Interest that Violate EHPD Policies: The charges against you allege that on April 9, 2017, you involved yourself in an investigation of a domestic matter involving one (1) of the women whose nude photographs you had sent and that this woman was a friend and/or acquaintance of yours. It is also alleged that you were contacted directly by this woman and that your car was parked in close vicinity to this woman's residence during that evening. This conduct may constitute a violation of EHPD Policies and Procedures – there are three (3) violations listed.

Again, the purpose of the pre-disciplinary hearing is to give you an opportunity to be heard on these allegations before any decision is made as to whether any disciplinary action should be taken against you.

Commissioner Torrealba requested a copy of the Disciplinary Matrix. Attorney Zullo suggested a short recess to obtain fresh, unmarked copies of the Disciplinary Matrix for the Board. Meeting recessed at 7:25 PM and resumed at 7:32 PM.

Attorney Healy had some questions about obtaining copies of Mr. Ferrara's personnel file, paystub records and a transcript of the prior processions and testimony – are these records available tonight or on request only.

Attorney Zullo stated that as of last week, the presentation and evidentiary portions of the hearing were closed; both sides were asked if they had anything further, if they wanted it to remain open; both sides said it was closed and the only thing that would take place [tonight] would be deliberation. At this point, it would be improper to accept any further testimony or presentation from either party.

Attorney Healy noted the exception with the completeness of record in terms of deciding the officer's fate with the Department, it would be appropriate to consider a more complete record of his service to the Town of East Haven as a police officer, the Commission should consider every aspect in regard to his overall performance when considering discipline. So, again, asking for an opportunity to obtain copies of Mr. Ferrara's personnel file, paystub records and a transcript.

Attorney Zullo commented that a transcript [of the prior meeting] was made but is not ready yet, and requests for personnel records can be made through the FOI process during normal business hours, obviously it would not be available tonight. Regardless, his advice to the Board remains the same. Counsel for both sides had more than adequate time to prepare for this, in fact, half a year. Again, if both sides agreed to close the evidentiary and presentation portions, it would be absolutely improper for the Board to receive any more evidence or testimony – if either side had something else to present, the time to present it would have been before the close of presentation.

Chairman Illingworth asked if Attorney Healy had met with Attorney Patis prior to this meeting. Attorney Healy said they had met briefly.

Chairman Illingworth called for determination on each of the charges, starting with the most serious.

On the charge of Untruthful and/or Misleading Responses to the IA Officer that Violate EHPD Policies, Vice Chairman DiSilvestro finds no mitigating factors and all aggravating factors; seconded by Commissioner Torrealba. All agreed unanimously. No one opposed or abstained.

On the charge of Use of Department Email for Inappropriate Purposes that Violate EHPD Policies and in addition, the use of EHPD email to send approximately 24 Connecticut Intelligence Center (“CTIC”) bulletins to personal email, Vice Chairman DiSilvestro finds no mitigating factors and all aggravating factors; seconded by Commissioner Torrealba. All agreed unanimously. No one opposed or abstained.

On the charge of Possible Conflicts of Interest that Violate EHPD Policies, Vice Chairman DiSilvestro finds no mitigating factors and all aggravating factors; seconded by Commissioner Torrealba. All agreed unanimously. No one opposed or abstained.

With regard to the charges, under the rules and regulations of the East Haven Police Department, Vice Chairman DiSilvestro made a motion to proceed with the termination of Officer Ferrara; seconded by Commissioner Torrealba. All in favor. No one opposed or abstained. Motion carried unanimously.

[Note: An exact, formal transcript was documented by the Certified Court Reporter.]

5. Adjournment

Vice Chairman DiSilvestro made a motion to adjourn; seconded by Commissioner Torrealba. Chairman Illingworth adjourned the meeting at 7:40 PM.

Respectfully submitted,

Marsha M. Maldonado
Clerk to the Honorable Board of Police Commissioners

[Audio recording on file]