

**CITY OF SHEBOYGAN**  
**BOARD OF POLICE AND FIRE COMMISSIONERS MINUTES**  
**Thursday, June 22, 2023**

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**MEMBERS PRESENT:** Corrado Cirillo, Jerry Jones, Jeanne Kliejunas, Larry Samet, Kristin Blanchard Stearns.

**STAFF/OFFICIALS PRESENT:** City Attorney Chuck Adams, Attorney Adam Westbrook, Chief Christopher Domagalski, Assistant Chief Michael Lubbert.

**OPENING OF MEETING**

1. Roll Call
2. Call to Order

President Samet called the meeting to order at 1:02 P.M.

3. Pledge of Allegiance

**MINUTES**

4. Approval of Minutes

MOTION TO APPROVE MINUTES FROM JUNE 8, 2023

Motion made by Blanchard Stearns, Seconded by Kliejunas.

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns.

5. Approval of Minutes

MOTION TO APPROVE MINUTES FROM JUNE 15, 2023

Motion made by Blanchard Stearns, Seconded by Kliejunas.

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns.

**ITEMS FOR DISCUSSION AND POSSIBLE ACTION**

6. Sheboygan Fire Department Hiring Pool – Expiration

MOTION TO APPROVE SFD HIRING LIST FOR ONE YEAR FROM JUNE 15, 2023

Motion made by Blanchard Stearns, Seconded by Kliejunas.

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns.

**HEARING**

7. Motion Hearing related to the matter of the complaint of Justin Daniels vs. Chief Christopher Domagalski.

Commission agreed to hear all motions from both sides before rendering decision.

Attorney Westbrook presented motions on behalf of his client as detailed in agenda packet attachments:

1. To dismiss based for lack of standing. Discussion revolved around who is an aggrieved person. Mr. Daniels detailed why he believes he is an aggrieved person. Blanchard Stearns read the definition of an aggrieved person.
2. To dismiss for failure to file within an allowable time. Discussion revolved around the 10-day rule for filing charges and the original complaint did not include facts that were presented in a subsequent filing. Believed delay was result of Mr. Daniels own actions. Mr. Daniels argued he did not act in bad faith instead it was an oversight on his part. Further discussion on "excusable neglect".
3. To dismiss for failure to state a claim for which relief can be granted. Attorney Westbrook stated the policy is a discretionary policy; thus, there is no violation to be considered. Mr. Daniels argued the Chief abused that discretion.
4. To dismiss for failure to state a claim for which relief can be granted and lack of subject matter jurisdiction...Criminal Investigation. Attorney Westbrook argued that there are not enough facts provided that would allow a finding of a violation. Significant discussion around the John Doe case and whether the Commission can hear criminal charges.
5. To dismiss for failure to state a claim...Supervisor Responsibilities. Attorney Westbrook argued that no facts were presented to support this charge. Mr. Daniels stated that supervisors bear responsibility for what occurs on their watch and they should be aware.
6. To dismiss...Retaliation Prohibited. Attorney Westbrook argued that there is a failure to show any instance that could possibly constitute retaliation under City or Department policy. Mr. Daniels argued that using her FMLA leave and quitting her job was the only avenue Officer AH had to stop the retaliation.

Mr. Daniels presented his motions:

1. To allow victims to testify via Zoom and/or in closed-session. General discussion to review each witness request on a case by case basis.
2. Victim be ID'd by a number instead of name. Significant discussion that the name has already been exposed. General discussion to use initials going forward.
3. Allow to quote from fact checked media outlets. significant discussion around the rules of hearsay and what is allowable. Disagreement between the parties on this topic. Significant discussion on testimonial standard.
4. To allow Mr. Daniels to make a brief opening statement. Again, discussion of testimonial standard.
5. Allow Commission to consider totality of all documented policy violations and charges. Mr. Daniels highlighted the abuse of discretion by the chief. Attorney Westbrook argued we should use the standard enumerated on Wis. JI-Civil 50.
6. Allow PowerPoint. No general disagreement
7. Define rules of the hearing. No general disagreement
8. Removal of Attorney Adams as PFC counsel. Substantial discussion asking for proof of bias by Attorney Adams.
9. Present evidence digitally. No General disagreement.

## CLOSED SESSION

8. Motion to convene in closed session under the exemption provided in Wisconsin State Statute § 19.85(1) (g) for conferring with legal counsel for the PFC who is rendering oral advice concerning potential strategy to be adopted by the PFC with respect to litigation in which it is involved, to wit: the matter of the complaint of Justin Daniels vs. Chief Christopher Domagalski.

### MOTION TO CONVENE IN CLOSED SESSION

Motion made by Cirillo, Seconded by Blanchard Stearns

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

## RECONVENE IN OPEN SESSION

9. Possible action on matters discussed in closed session

### MOTION TO RECONVENE IN OPEN SESSION

Motion made by Kliejunas, Seconded by Blanchard Stearns

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns.

Commission will consider Attorney Westbrook's motions, then Mr. Daniels' motions.

## WESTBROOK MOTIONS

*Respondent's First Motion to Dismiss the Entire Complaint  
(Failure to File a Charge Within the Allowable Time)*

### MOVE TO APPROVE MOTION TO DISMISS

Motion made by Cirillo, Seconded by Kliejunas

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns.

*Respondent's Second Motion to Dismiss the Entire Complaint  
(Lack of Standing)*

### MOVE TO DENY DISMISSAL

Motion made by Cirillo, Seconded by Blanchard Stearns

Voting Yea: Cirillo, Kliejunas, Samet, Blanchard Stearns

Voting Nay: Jones

*Respondent's Motion to Dismiss Count One  
(Administrative Leave Policy)*

### MOVE TO APPROVE DISMISSAL

Motion made by Cirillo, Seconded by Kliejunas

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns.

*Respondent's Motion to Dismiss Count Two  
(Criminal Investigation Policy)*

### MOVE TO HOLD IN ABEYANCE MOTION TO DISMISS

Motion made by Blanchard Stearns, Seconded by Cirillo

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

*Respondent's Motion to Dismiss Count Three  
(Supervisor Responsibility Policy)*

MOVE TO APPROVE MOTION TO DISMISS

Motion made by Blanchard Stearns, Seconded by Jones

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

*Respondent's Motion to Dismiss Count Four  
(Retaliation Policy)*

MOVE TO APPROVE MOTION TO DISMISS

Motion made by Blanchard Stearns, Seconded by Kliejunas

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

*Respondent's Motion to Dismiss Count Five and Six  
(Allegations of Criminal Conduct by Chief)*

MOVE TO HOLD IN ABEYANCE MOTION TO DISMISS

Motion made by Cirillo, Seconded by Kliejunas

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

DANIELS MOTIONS

*Complainant's First Motion  
(Form of Testimony)*

MOVE TO APPROVE ON CASE BY CASE BASIS

Motion made by Blanchard Stearns, Seconded by Kliejunas

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

*Complainant's Second Motion  
(Identity of Certain Witnesses)*

MOVE TO APPROVE MOTION REGARDING USE OF IDENTIFIER

Agreed to use initials AH

Motion made by Cirillo, Seconded by Kliejunas

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

*Complainant's Third Motion  
(Permit Hearsay Related to Newspaper Articles)*

MOVE TO APPROVE ON CASE BY CASE BASIS WITHIN RULES OF HEARSAY

Motion made by Blanchard Stearns, Seconded by Kliejunas

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

*Complainant's Fourth Motion  
(Opening Statements)*

MOVE TO APPROVE MOTION REGARDING OPENING STATEMENT WHEN UNDER OATH

Motion made by Cirillo, Seconded by Kliejunas

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

*Complainant's Fifth Motion  
(Consideration of Totality of Allegations)*

MOVE TO APPROVE MOTION REGARDING DOCUMENTED POLICY WITHIN RULES OF HEARSAY

Motion made by Blanchard Stearns, Seconded by Jones

Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

*Complainant's Sixth Motion*  
*(Permit the Use of PowerPoint)*  
MOVE TO APPROVE MOTION  
Motion made by Jones, Seconded by Cirillo  
Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

*Complainant's Seventh Motion*  
*(Clarify Definition of the "Preponderance of the Evidence" Standard of Review)*  
MOVE TO APPROVE MOTION  
With Attorney Adams' clarifying notes  
Motion made by Cirillo, Seconded by Kliejunas  
Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

*Complainant's Eighth Motion*  
*(Remove Counsel for the Board)*  
MOVE TO DENY MOTION  
Motion made by Cirillo, Seconded by Kliejunas  
Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

*Complainant's Ninth Motion*  
*(Digital Submission of Evidence)*  
MOVE TO APPROVE MOTION  
Motion made by Jones, Seconded by Blanchard Stearns  
Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

*Findings, Final Order, and Review*  
Decision on timeliness of charges results in  
MOTION TO DISMISS WITH PREJUDICE DUE TO FAILURE TO FILE IN A TIMELY MANNER  
Motion made by Cirillo, Seconded by Kliejunas  
Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

Case is dismissed with prejudice; thus, the commission moves to lift the requirement for timely submittal of witness list.

MOTION TO LIFT THE REQUIREMENT FOR TIMELY SUBMITTAL OF WITNESS LIST  
Motion made by Kliejunas, Seconded by Cirillo  
Voting Yea: Cirillo, Jones, Kliejunas, Samet, Blanchard Stearns

*Attorney Adams was instructed to draft the order for signature of the PFC, a final copy of which is attached with meeting minutes.*

## **ADJOURN**

### **10. Motion to Adjourn**

No further business  
ADJOURN AT 5:58 P.M.