

EAST WINDSOR POLICE COMMISSION

REGULAR MEETING: June 9, 2021

7:00 p.m.

Held Via ZOOM

Meeting ID: 935-3479-3548

URL: <https://zoom.us/j/93534793548>

1. CALL MEETING TO ORDER AND ATTENDANCE:

Meeting was called to order at 7:03 pm by Chairman Leach. Commissioners Filipone, Long, and Mancuso were present. Also present were Chief Edward DeMarco Jr., Deputy Chief Roger Hart, and Administrative Lieutenant Matt Carl. Present in the audience were Selectman Sarah Muska and Selectman Charles Nordell, Sgt. Reimer, Town Attorney Joshua Haw-Ladd, Council 4 Attorney Kelly Rommel, Sgt. David McNeice, and many members of the public.

2. ADDED AGENDA ITEMS:

MOTION made by Commissioner Long to move Item 11 Executive Session-Personnel Matter to Item 3A.

SECONDED by Commissioner Mancuso

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL THOSE VOTING, VOTE IN FAVOR. MOTION CARRIED.

MOTION made by Commissioner Long to move Item 10 Public Input to Item 3B.

SECONDED by Commissioner Mancuso

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL THOSE VOTING, VOTE IN FAVOR. MOTION CARRIED.

3. PREVIOUS MEETING MINUTES:

The minutes from the May 12, 2021, regular meeting were reviewed by all commission members.

MOTION made by Commissioner Long to accept the regular meeting minutes of 05/12/2021.

SECONDED by Commissioner Mancuso

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL THOSE VOTING, VOTE IN FAVOR. MOTION CARRIED.

A) Executive Session-Personnel Matter – Chairman Leach stated this is a pre-disciplinary hearing involving police department member Sgt. David McNeice pursuant to CT General Statutes Section 7-276 and Collective Bargaining Agreement between the Town and ASFCME

Council 4 Article 3, and the Town of East Windsor Policy Manual which was referred to this Commission by the police. This was scheduled to be heard in Executive Session however, Sgt. McNeice has the right to have the matter heard in public session. Sgt. McNeice stated he would like it to be held in public session. Chairman Leach would like a motion to commence the pre-disciplinary hearing into Sgt. McNeice's conduct as of March 7th

MOTION made by Commissioner Filipone that the hearing be held in public session as per the request of Sgt. McNeice and his attorney.

SECONDED by Commissioner Long

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL THOSE VOTING, VOTE IN FAVOR. MOTION CARRIED.

Chairman Leach stated he has asked the Town Attorney Josh Hawks-Ladd to represent the Police Commission's interest tonight to handle the pre-disciplinary process. Attorney Hawks-Ladd stated this is scheduled for a pre-disciplinary hearing in accordance with the Commission's policies and Cleveland Board of Education vs. Loudermill. This matter is limited to the Commission providing Sgt. McNeice with an opportunity to be heard based on the allegations that the police department has lodged and raised with this Commission against him. He then introduced Chief DeMarco to explain why we are here and what he is looking for from the Commission.

Chief DeMarco explained in detail that on March 3, 2021, Sgt. McNeice agreed to be put on alternative (also known as light duty) due to a physical disability. On March 7, 2021, while on light duty, Sgt. McNeice intentionally and willfully violated his orders and potentially committed a host of serious policy violations including insubordination and placing himself, other police officers and the public at serious risk. Due to the significance of his actions and potential serious violations, he had the matter internally investigated by Admin. Lt. Carl. He went on to give details about the internal investigation and the severity of the risk Sgt. McNeice's actions put others in. For the protection and safety of our police officers and the community we serve he had to refer this matter to the East Windsor Police Commission for a pre-disciplinary hearing.

Attorney Hawks-Ladd then introduced Admin. Lt. Carl who conducted the internal investigation into this matter.

Admin. Lt. Carl explained in detail the internal investigation he was assigned to and completed. This investigation included interviewing Sgt. McNeice, reviewing police department dashboard cameras, body cameras, internal department cameras, audio logs, court transmittals and reporting done in our NexGen system. Admin. Lt. Carl found that Sgt. McNeice violated the following policies:

Chapter 26- Disciplinary Procedures, Section 5- Code of Conduct.

SECTION 4 INSUBORDINATION: Conduct that is a direct violation of a reasonable and lawful order.

4.01 Refusal to obey legitimate orders of a supervisor whether oral, in writing, by hand signal, or other method known to both parties involved.

SECTION 5 NEGLECT OF DUTY: Conducting or omitting the performance of ones duties such that the performance is not in accordance with the established and ordinary duties or procedures, or which constitutes an unreasonable exercise of discretionary judgment

5.05 Intentional and willful failure to comply with any lawful orders, procedures, directives, regulations, oral or written.

5.23 Performing assigned duties or other official work in a careless or negligent manner or in disregard of proscribed procedures or established practices.

5.24 Failure to observe department procedures outlining safety practices or adhere to established industry practices relating to safety.

Chapter 22- Compensation, Benefits, and Conditions of Work

Section 4- Alternative Duty Program

H. Sworn employees participating in the transitional alternative-duty program shall not be allowed to wear the uniform of a sworn member unless approved by the Chief of Police and shall not perform the full duties of a sworn member of the police department. Sworn employees assigned to alternative-duty shall wear attire as specified by the person supervising the alternative-duty assignment. The Chief of Police may approve the wearing of the department uniform by a sworn member assigned to alternative-duty for special occasions or functions.

Chapter 41- Patrol

Section 05- Emergency Vehicle Operation and Response

All personnel operating departmental vehicles during non-emergency (normal operations) shall do so in a reasonable and safe manner, exercising due caution and judgment. Personnel shall operate the departmental vehicle in compliance with all laws and regulations, setting an example for the community at large.

All emergency vehicle operations shall be conducted in strict accordance with law including, but not limited to, CGS § 14-283. Officers engaged in emergency vehicle operations shall utilize both audible (siren) and visual (emergency lights) emergency warning equipment in response to calls for assistance.

All personnel operating departmental vehicles shall exercise due regard for the safety of all persons. No assignment shall be of such importance, and no task shall be expedited with such emphasis, that the principles of safety become secondary. There are no tasks in the department of such importance that they justify the reckless disregard for the safety of innocent persons. Departmental personnel will be held strictly accountable for the consequences of their reckless disregard for the safety of others.

Chapter 41- Patrol

Section 61- In Car Dashboard and Body Worn Cameras

2. Use and activation of an issued or approved body-worn and dashboard cameras, shall record the following.

a. Police officers issued or assigned a body-worn camera shall wear such camera on his/her outmost garment and shall position it above the midline of his/her torso when in use.

b. Police officers issued or assigned a body-worn and dashboard cameras shall activate the camera while interacting with the public in a law enforcement capacity.

(1) For the purposes of this policy, “interacting with the public in a law enforcement capacity,” means that a police officer is in personal contact with one or more members of the public, the purpose of which is to conduct a self-initiated investigation into, or to respond to a third-party complaint involving, the possible commission of any offense, violation or infraction.

(2) In addition, police officers equipped with body-worn and dashboard cameras shall record the following:

- a. Vehicular pursuits.
- b. Motor vehicle stops.
- c. Motorist assists.
- d. The taking of statements from suspects, witnesses and victims.
- e. The conducting of interviews with suspects, witnesses and victims.
- f. Transportation and processing of prisoners.
- g. Any incident or event not otherwise prohibited by this policy, which may be dangerous, unpredictable, or potentially useful for department training purposes.
- h. Situations where a police officer, by reason of training and experience, determines that the incident should be documented on video.
- i. Foot Pursuits
- j. Any incident or event not otherwise prohibited by this policy, where the police officer anticipates a use of force encounter may occur.
- k. Serving arrest and search warrants.

Chapter 74- Legal Process

Section 5- Arrest Processing Procedures

D. Arrest with a Warrant.

Connecticut General Statutes grant an officer the authority to arrest with a warrant. A Police Officer with an arrest warrant derives certain authority that does not exist without the warrant. Officers may leave their jurisdiction, within the state of Connecticut, and arrest with an arrest warrant for a misdemeanor or a felony. (See DOD 74-1 Arrest Warrant Procedures)

Chapter 41- Patrol

Section 20- Uniform Regulations

C. Wearing of Uniforms

1. Police Officers

- a. East Windsor Police Department personnel may not wear any non-issued article of clothing, badge or insignia, unless it is specifically authorized by the Chief of Police. A list of authorized items may be found in the uniform code, which follows this directive.
 - b. While on duty, all members of the Patrol Division will be in complete uniform, unless exempted by the Chief of Police, or with permission of their immediate supervisor for special details.
 - c. While on duty, every uniformed Officer of the East Windsor Police Department must have the official badge of the agency as well as the official name plate/tag of the agency, including (at minimum) the Officer's last name, affixed prominently to the outer-most garment of their uniform.
1. While on duty, any plain clothes Officer working an assignment where he/she is interacting with the public while wearing an outer uniform garment shall have the official badge of the agency as well as the official name plate/tag of the agency, including (at minimum) the Officer's last name, affixed conspicuously to the outer-most garment of their uniform, if applicable.

Admin. Lt. Carl also stated the alternative duty is a written policy. It is on a system called Power DMS and must be signed off on by each officer. He believes it is clear Sgt. McNeice understood this policy.

Admin. Lt. Carl went on to show five videos as evidence that show these policies were violated. A discussion ensued.

Sgt. McNeice asked to address the Commission. He stated: Thank you for taking the time to review this matter. I apologize that you have to devote precious time and energy on this incident. I hope that you will consider the totality of the circumstances in this matter. I've been a Police Officer in East Windsor for 17 years on June 21st and I've been a Police Officer in the State of CT for 21 years. I've gladly sacrificed weekends, holidays, birthdays, anniversaries, special occasions, so I could serve and protect the residents of East Windsor. Law enforcement has been my chosen career and I have dedicated my life to upholding the law and helping others. I really believe that I was born to be a police officer in the role of guardian and protector and that's my identity. I've tried to complete every task that's ever been given to me to the best of my ability. I've been successful in many endeavors, but in the everchanging police world you learn something new every single day. I've received many accommodations and accolades and probably my favorite part of the job is the little personal connections and the lives that I have touched along the way. The little things that no one ever sees like the family that I adopted after their son committed suicide on Christmas Eve, or the elderly female that I paid for her gas when she thought she already paid the attendant, or the children I used to read to entertain with my K-9 partner Mack and read books to at the elementary school. Those are the little moments that I cherish the most in my career. I have saved lives on more than one occasion, and I don't think you can ever put a price on a person's life. The accomplishments that I remember most are the simple acts that touch people's lives. I've also learned that the world is constantly changing, unpredictable place and nobody is infallible. We all make mistakes because we are all human. The incident that we are discussing here this evening was certainly a mistake and I'm terribly sorry for making an error in judgment. I clearly understood the Chief ordered me to alternative duty and I was not on patrol that evening, but I heard the

domestic violence incident going down and that we had a reliable witness, the aunt of the victim, that provided a full description of the vehicle including the MA plate and the witness was going to continue to follow the vehicle. I went to dispatch to inquire if we had any patrol units that were available for a motor vehicle stop. Dispatch said all the units were in Broad Brook and the vehicle was approaching I-91. I made the timely decision in which I believed that the suspect would already have a felony violation of a protective order arrest warrant the same type of event posed a danger to the victim and that danger outweighed my alternative duty restrictions. But I know now that this call was not mine to be made. At this time, I believed that the suspect needed to be stopped. There was no premeditation on my part to disobey the Chief's order. I do not have a history of disobeying orders and I do respect the chain of command. I simply acted because I believed it was for the greater good of the community and the greater good of the victim. I've never done anything with malice in my heart and this was simply a gut instinct of mine to not let the bad guy get away. I never imagined that I would be in this position right now, facing these kinds of consequences because at the time, I thought I was doing the right thing. I am deeply sorry for the way this has turned out. I know that I still have much to offer the Town of East Windsor. I have a great deal of experience that I believe can be used in the field and share with the up-and-coming officers in the department. I love what I do as a Police Officer and Sergeant, and I especially love the connections that I have made in the East Windsor community. I am hoping that you can see past this error in judgment and realize that I am only human, and I made a mistake. I would also like you to consider that I have made many good decisions and taken heroic actions that are not being highlighted right now. I have many examples in which I have saved lives, recovered property, provided valuable services to the community. I honestly believe that my track record speaks for itself, and I am certainly capable of making good, informed decisions based on my experience in the future. I hope that each one of you will consider the human being behind the police officer, or the person behind the badge. Thank you.

Attorney Rommel then read a statement she had prepared. This statement went over the many accolades and awards Sgt. McNeice has earned over the years as an officer. He has over 21 years of police experience and has no disciplinary history. There is no question he violated the light duty policy, and he admits the mistake and regrets it. Please look at his intent and entire career when you make your decision. He felt the only way to ensure public safety was if he were to catch him, he did not have any ill intent. This is not the first officer accused of violating the alternative duty policy. Just this last year another Sergeant was on alternative duty, there was a complaint made, and the Sergeant was given an email to correct her actions to do better next time. She asked them to take in the totality of the circumstances and not this one night, this one bad judgment call.

MOTION made by Commissioner Filipone to enter into Executive Session at 9:15 pm to include Chief DeMarco, Deputy Chief Hart, and Admin. Lt. Carl.

SECONDED by Commissioner Mancuso

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL IN FAVOR, MOTION CARRIED.

MOTION made by Commissioner Filipone to end Executive Session at 9:51.

SECONDED by Commissioner Mancuso

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL IN FAVOR, MOTION CARRIED.

MOTION made by Chairman Leach to call meeting back to order at 9:51.

SECONDED by Commissioner Mancuso

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL IN FAVOR, MOTION CARRIED.

MOTION made by Commissioner Filipone to terminate Sgt. David McNeice from the East Windsor Police Department effective immediately.

DISCUSSION: Chairman Leach stated all the Commissioners deliberated on this and we recognized Sgt. McNeice's nearly 17 years of service to the town and the accolades that he's earned, but there are major concerns that we've discussed and the reasoning that we've reached this determination. The seriousness of the actions and the seriousness of the charges that have been brought by the administration and the evidence of the investigation is what has led us to this point. Commissioner Filipone stated the breach of chain of command creates a lack of trust within the organization. There was a lack of safety for the public and the other officers involved with the pursuit (no lights, no protective equipment), and my main concern is that it could happen again. He doesn't want to put the town under that risk and liability. He feels very strong about his opinion. Commissioner Mancuso concurs with Commissioner Filipone that he hit all the points that they discussed at length.

SECONDED by Commissioner Mancuso

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL IN FAVOR, MOTION CARRIED.

MOTION made by Chairman Long to conclude the pre-disciplinary hearing

SECONDED by Commissioner Mancuso

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL IN FAVOR, MOTION CARRIED.

Chairman Leach stated he will send written notification of their determination to Sgt. McNeice and Attorney Rommel in the next day and that concludes the hearing.

B) PUBLIC INPUT – Comments and Discussion (5 minutes maximum time per subject)

Jim Bancroft of 60 Norton Road, Broad Brook, stated the only thing you guys have done today is weakened the community and weakened the police department. I'm absolutely appalled by the Police Commission's decision, and you can guarantee none of you will have my vote next term.

Chief James Barton from the Warehouse Point Fire District, also a 45-year resident of East Windsor and Fire Chief for the last 16 years, stated I've worked hand in hand with Sgt. McNeice and on every incident from car accidents to fires to overdoses to everything that we go to. Every decision that he makes he has to make in a split decision. Every decision I make I have to make in a split decision. Its easy to make the decision from behind the desk. I'm appalled at this decision. He made a mistake and he realized he made a mistake. To echo Jim Bancroft – you guys weakened the police department's life as commissioners. You're not looking out for the better interest of the town. The only thing that you did was cost us a lot of money tonight and I hope you guys are proud of yourselves.

Rich Paradise of 45 Main Street, Broad Brook, and member of the fire department stated he agrees with the two Chiefs. You're losing our votes. It was not right. He's a good guy. Thank you.

David Zelaya of 28 Newberry Road, and an eight-year member of the Broad Brook fire department stated he agrees it was a poor choice on termination. He did agree on wrongdoing and at a minimum it could have maybe been a demotion. He's been a great asset to the police department and a termination was well over-done for what he did. He admitted fault and took blame that he did wrong. I don't agree with the termination, and it was definitely a poor choice and at least it should have been maybe a demotion and definitely not a termination.

Caren Paradise of 45 Main Street, Broad Brook, and a member of the Broad Brook fire department stated she is greatly saddened by your actions tonight. Officer McNeice is a great, great asset to this town, and you've really done an injustice here. He really was an asset to this town, and you just crushed the whole police department and you've ruined his career.

4. BUDGET AND EXPENDITURES:

A) Police Department – Monthly Billing: MOTION made by Commissioner Filipone to approve the monthly billing, as of June 9, 2021, in the amount of \$20,609.92, as submitted.

SECONDED by Commissioner Long

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL IN FAVOR, MOTION CARRIED.

B) Police Department – Financial Statement: MOTION made by Commissioner Long to approve the monthly financial statements, with a balance of \$401,369.42, as submitted.

DISCUSSION: Commissioner Filipone said it looks good and we have 3 weeks left. Chairman Leach is wondering if we are going to make it to the end of the year. We need to see the billing for next month as there may be a lot left.

SECONDED by Commissioner Filipone

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL IN FAVOR, MOTION CARRIED.

C) Police Commission – Monthly Billing: MOTION made by Commissioner Filipone to approve the monthly billing in the total amount of \$125.00.

SECONDED by Commissioner Long

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL IN FAVOR, MOTION CARRIED.

D) Police Commission – Financial Statement: **MOTION** made by Commissioner Filipone to accept the police commission monthly financial statement dated 05/31/2021 as submitted with a balance of \$475.00.

SECONDED by Commissioner Mancuso

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL IN FAVOR, MOTION CARRIED.

5. UNFINISHED BUSINESS:

None.

6. TRAFFIC AUTHORITY:

Chief DeMarco stated the airplane sign requests have been sent to the DPW. They will be coming up with a sign and will be putting one on both sides of the airport.

7. NEW BUSINESS:

None.

8. COMMUNICATIONS:

None.

9. MONTHLY REPORTS:

None.

10. EXECUTIVE SESSION:

MOTION made by Commissioner Long to enter into Executive Session at 10:12 pm to include Chief DeMarco, Deputy Chief Hart, and Admin. Lt. Carl for discussion on legal issues.

SECONDED by Commissioner Filipone

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL IN FAVOR, MOTION CARRIED.

MOTION made by Commissioner Long to end Executive Session at 10:27 pm

SECONDED by Commissioner Mancuso

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL IN FAVOR, MOTION CARRIED.

11. ADJOURNMENT:

MOTION made by Commissioner Long to adjourn the meeting at 10:27 pm.

SECONDED by Commissioner Mancuso

VOTED IN FAVOR: Commissioners Filipone/Long/Mancuso

ALL IN FAVOR, MOTION CARRIED.

Respectfully submitted,

Judith Tweedlie - EWPC Recording Secretary