



AGENDA OF THE PERSONNEL COMMITTEE

TUESDAY, MARCH 9, 2021, 4:30 PM
IMMEDIATELY FOLLOWING FINANCE COMMITTEE
Virtual Meeting. Public may join via Zoom.

A. Zoom Meeting Information.

- I. This item contains documents which provide call in information and instructions for the Zoom meeting.

B. Roll Call.

- I. Members: Ald. Bill Galvin, Ald. Barbara Dorff, Ald. Veronica Corpus-Dax, Ald. Brian Johnson

C. Approval of the Agenda.

D. Approval of Minutes.

- I. Approval of the minutes from February 23, 2021.

E. Regular Business.

- I. Consideration with possible action on the request to fill the following replacement positions and all subsequent vacancies resulting from internal transfers.
 - a. Parking Building Technician - Public Works
 - b. Neighborhood Compliance Inspector - Community and Economic Development

2. Consideration with possible action on the request for reconsideration received from the GBPPA on the decision issued on grievance #20-005 filed by the Green Bay Professional Police Association regarding the removal of an officer from the K-9 Unit.

The Committee may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

3. Consideration with possible action on grievance #2020-006 filed by the Green Bay Professional Police Association regarding SWAT team overtime compensation.

The Committee may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

F. Informational.

1. Report of routine personnel actions for regular employees.
2. Next meeting date: March 23, 2021

G. Adjournment.

- 1) THIS MEETING IS RECORDED: THE VIDEO OF THIS MEETING AND MINUTES ARE AVAILABLE ONLINE AT www.greenbaywi.gov
- 2) ACCESSIBILITY: Any person wishing to attend who requires special accommodation because of a disability, should contact the City Safety Manager at 920-448-3125 at least 48 hours before the scheduled meeting time so that arrangements can be made.
- 3) QUORUM: Please take notice that a majority or quorum of the Common Council will attend this Personnel Committee meeting and will constitute a meeting of the Common Council for purposes of discussion and information gathering relative to this agenda.
- 4) REPRESENTATION: The party requesting the communication, or their representative, should be present at this meeting.

Virtual Meeting Instructions



Personnel Committee

Zoom Meeting Information

Join Zoom Meeting

<https://us02web.zoom.us/j/86846491807?pwd=K3NJQ1NxdXU1cjB2RlR0TWVTUkJYdz09>

Meeting ID: 868 4649 1807

Passcode: 298054

One tap mobile

+19292056099,,86846491807#,,,,*298054# US (New York)

+13017158592,,86846491807#,,,,*298054# US (Washington D.C)

Dial by your location

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington D.C)

+1 312 626 6799 US (Chicago)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 868 4649 1807

Passcode: 298054

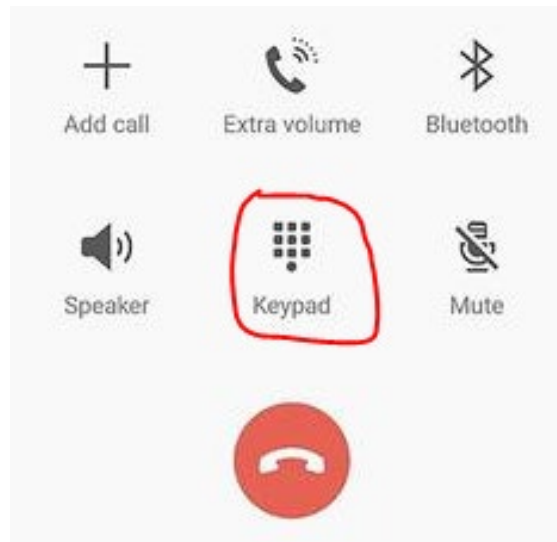
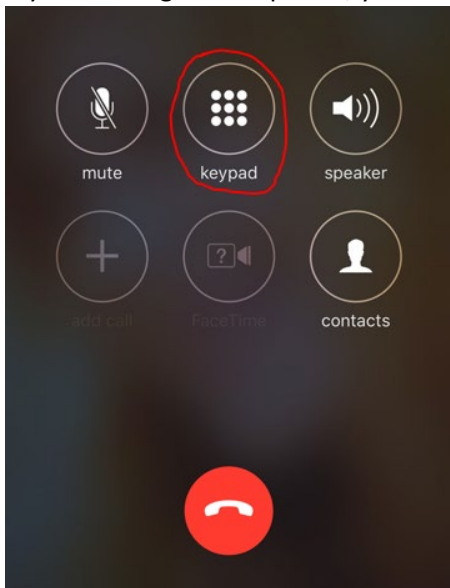
Find your local number: <https://us02web.zoom.us/j/86846491807?pwd=K3NJQ1NxdXU1cjB2RlR0TWVTUkJYdz09>

Additional Information

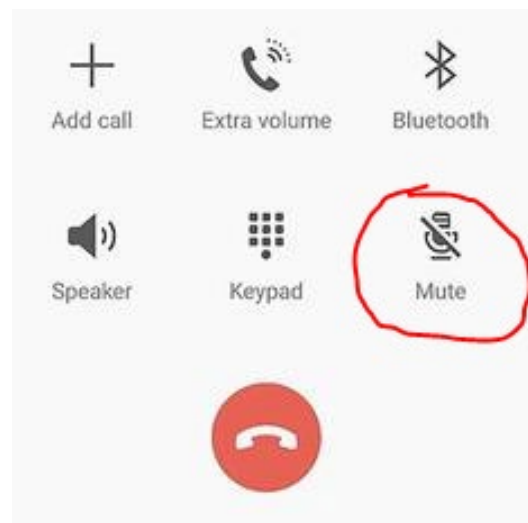
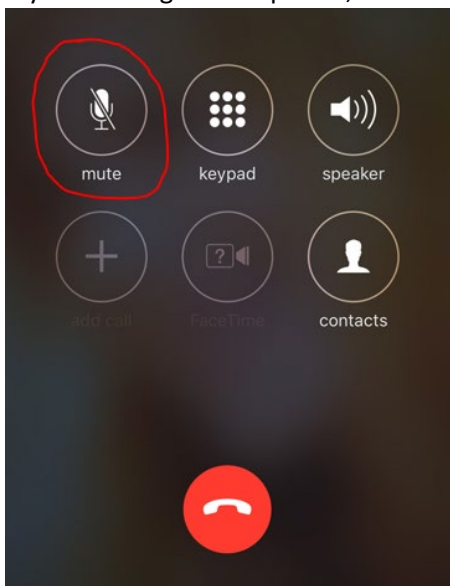
1. Wisconsin Open Meetings Law still applies
 - a. Persons interested in speaking to an item must give their name and address
 - b. Committee/Commission/Board members will still follow *Roberts Rules of Order*
2. All zoom meetings will have a password in the instructions. Please enter when prompted.
3. Please log into the Zoom meeting 10 minutes before the meeting starts to ensure proper technology is working.
 - a. If you are a Board Member, please log into [CivicClerk](#) with a computer, laptop, or tablet device.
4. Once you are in the meeting please mute yourselves.
 - a. You may unmute yourself when you are called upon to speak.
5. Waiting room
 - a. When you call in, all callers/participants will be placed in a “waiting room.”
 - b. Persons on the agenda will be admitted to the meeting, and then once the item is concluded, the host will permanently mute you from the meeting (you can still hear the meeting).
6. Using Zoom with a tablet or computer
 - a. Tablet—you will be asked to sign in. Download the app either with the Apple Store or the Play Store
 - b. Computer—you will be asked to sign in. You may download the app or click on the link to open Zoom in your browser.
7. Registering
 - a. The host may ask you to register for the meeting. A registration link will be sent to you along with the invite. You’ll receive another email confirming that you’re registered for the meeting.
 - b. If you’re using a phone, your registration will still be tied to an email.
8. Raising your hand
 - a. Committee members—you can either use CivicClerk and request to speak or you can “raise your hand” in the zoom meeting (you’d need to use a computer or tablet) to let the host know you’d like to speak. You can also un-mute yourselves and start speaking.
 - b. Persons on the agenda—you can “raise your hand” but you’d need to use a computer. You will be allowed to speak, per Wisconsin Open Meetings Rules, once the committee has “opened the floor for interested parties to speak.” Once the committee is finished with your agenda item, the host will mute you permanently, unless the committee opens the floor again.
9. What devices should I use?
 - a. Smart phone (please see more detailed instructions on page 3)
 - b. Land line
 - c. Tablet—well in advance of the meeting, please download the Zoom Meeting app before you join a meeting by using either the Apple Store or the Play Store. You will be asked to input your name, thus identifying you for the meeting. You’ll also be asked to verify your email.
 - d. Computer—well in advance of the meeting, please download the Zoom Meeting app, but you can also click on a link to open the Zoom Meeting in your browser. You will be asked to input your name, thus identifying you for the meeting.
 - e. For tablet and computer users—if you download the app you will be asked to verify your email.
10. Zoom etiquette
 - a. Muting yourselves when you’re not talking will prevent your background noise from interfering with others’ ability to listen to and participate in the meeting.
 - b. If you’re using a telephone, please identify yourself with your phone number and name before you speak. Zoom meeting hosts can see only your telephone number and will ask you to identify yourselves.
11. Closed session
 - a. Persons in the Zoom meeting will be put into a waiting room while the committee meets in Closed Session. Participants will be admitted back into the Zoom meeting once the committee reconvenes in Open Session.
 - b. Persons watching live on YouTube will see a gray screen with the City logo during closed session.
12. Persons interested in attending anonymously or listening to the meeting may call in by dialing *67 followed by the phone number above.

Calling into the Zoom meeting using a smartphone

1. Dial the phone number listed at the beginning of this document.
2. When prompted, enter the Meeting ID number followed by #
 - a. If you're using a smartphone, you can access the keypad by clicking "Keypad" on your screen



3. Once you are in the meeting, notify the meeting host that you are in and state your name.
4. If you do not need to talk, please make sure your phone is on **Mute**
 - a. If you're using a smartphone, look at your screen and click the Mute button



- b. If you're using a computer, you should see a Mute button in the Zoom application





Report to the
Personnel Committee
of the City of Green Bay

MEETING DATE

March 9, 2021

PREPARED BY

AGENDA ITEM # E.I

Consideration with possible action on the request to fill the following replacement positions and all subsequent vacancies resulting from internal transfers.

- a. Parking Building Technician - Public Works
- b. Neighborhood Compliance Inspector - Community and Economic Development

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

1. Request to Fill Memo 3.9.2021
2. Parking Building Technician - A. Mercier 03.12
3. Neighborhood Compliance Inspector 2021

MEMORANDUM



Human Resources Department

To: Personnel Committee
Joe Faulds, Human Resources Director

From: Sarah Fidler
Human Resources Generalist

Re: Request to Fill Vacant Positions

Date: March 9, 2021

The Human Resources Department is requesting authorization to fill the following replacement positions approved as part of the 2021 budget and all subsequent vacancies resulting from internal transfers. The justification reports are attached.

- Parking Building Technician – Replacement position due to the resignation of Alycia Mercier effective March 12, 2021. Salary range: \$18.73 to \$22.04 per hour
- Neighborhood Compliance Inspector – Replacement position due to the resignation of Marcus Rufledt effective March 14, 2021. Salary range: \$20.36 to \$23.96 per hour

Position Justification Form

March 1, 2021

Position Title: **Parking Building Technician – DPW Parking Division**

- 1. If this position is a replacement position, please indicate the reasons for the vacancy. If this is not a replacement position, please indicate the reasons for requesting the position.**

 X **Replacement Position** **Not a Replacement Position**

This is a request for a replacement vacancy, resulting from the resignation of Parking Building Technician Alycia Mercier effective at the end of her regular work shift on Friday, March 12, 2021.

- 2. Is this position included in the current budget? If not, please list how this position will be funded (grant, internship, etc.). Please list the salary range of the position.**

Yes, this position is funded in the Parking Division's operating budget. The wage range is currently set at \$18.73 to \$22.04 per hour (\$38,958 to \$45,843 annually).

- 3. Please list the functions and any special information regarding this position.**

Parking Division's mission is to provide clean, safe, dependable, and reasonably priced public parking services. The PBT position plays a key role in achieving these goals and objectives by performing duties such as cleaning facilities, washing windows, snow removal (seasonal), pressure washing parking ramps, maintaining landscaped areas (seasonal), removing/cleaning waste, and other debris. Additionally, with the automation of the parking ramps (gates now down 24/7/360) this position is key to helping maintain proper security and staff coverage to assist parking patrons.

- 4. Does the position generate revenue or reduce expenses? If so, provide an estimated amount.**

The Parking Building Technician position does not generate revenue directly. However, PBT's assist parking patrons with proper use of automated PARCS equipment when necessary, to pay parking fees.

- 5. Please explain why current staff is unable to absorb duties of this position.**

Parking Division's complement of PBT staff is three (3) people. There are currently just enough parking staff members to maintain proper shift coverage. The PBT staff complement cannot be reduced without negative impact on parking operations, and employee health, safety, and morale.

- 6. If duties of position are presently being done, how are they done?**

During a PBT vacancy, shifts are filled by another Parking Division employee. If employees are not available to fill vacant shifts, then it goes vacant if an acceptable minimum staffing level is present. Otherwise the vacancy must be filled using overtime.

- 7. What service would be reduced or eliminated if this position is not filled?**

Cleanliness, safety, customer service, traffic control, and security in an operation running 24/7/360 (off only on major holidays)

8. What are the alternative methods and costs of accomplishing the work?

Alternative staffing methods include forcing other Parking Division employees to cover these duties and hours in an operation running 24/7/360 (off only on major holidays). One hardship would be forcing night staff (scheduled 8:00 p.m. to 6:30 a.m.) to either work in advance of or after their shift to cover vacant PBT shifts. This would result in reduced rest periods between shifts for this work group, which can cause safety concerns for operating equipment and driving vehicles.

9. Are there union issues?

No

10. Other supporting comments.

The City attempted to privatize its parking operation in 1998. This activity was met with significant resistance. After seeing what occurred with privatization of the City of Chicago parking system, Green Bay is not interested in dealing with the increased costs and problems of a privatized public parking system, especially given the fact that the current system is functioning well.

**Position Fill Request
Justification Report
March 5, 2021**

Position Title: **Neighborhood Compliance Inspector**

- 1. If this position is a replacement position, please indicate the reasons for the vacancy. If this is not a replacement position, please indicate the reasons for requesting the position.**

 X Replacement Position Not a Replacement Position

This is a replacement position for Marcus Rufledt who resigned effective 3/14/2020.

- 2. Is this position included in the current budget? If not, please list how this position will be funded (grant, internship, etc.). Please list the salary range of the position.**

Yes. Pay Grade F (\$20.36 - \$23.96/hour)

- 3. Please list the functions and any special information regarding this position.**

Performs work of moderate difficulty in the inspection of property relating to the enforcement of City ordinances specific to general environmental nuisances (e.g., graffiti, pet waste, junk, trash, litter and debris, rodent and pest control measures, etc.) and zoning (e.g., tree and brush obstructions, abandoned vehicles, parking in front yard and in setbacks, etc.)

- 4. Does the position generate revenue or reduce expenses? If so, provide an estimated amount.**

This position is responsible for enforcement of ordinances which might include issuing re-inspection fees as well as municipal citations.

- 5. Please explain why current staff is unable to absorb duties of this position.**

Timely follow-up to complaints is important to the health of our neighborhoods. This position responds to over 1,000 complaints per year. Having the Housing and Zoning Inspectors respond would slow down enforcement of codes and therefore would result in a decline in the quality of neighborhoods.

- 6. If duties of position are presently being done, how are they done?**

They are being done by existing staff.

- 7. What service would be reduced or eliminated if this position is not filled?**

Timely response to neighborhood enforcement of nuisance complaints as well as a potential of increased rodent population.

- 8. What are the alternative methods and costs of accomplishing the work?**

There are no current alternate methods at this time.

9. Are there union issues?

No.

10. Other supporting comments.

This inspection position handles over 1,000 complaints per year. It is vitally important to the health of our neighborhoods to keep them clean, keep the rodent population in check, and the parking compliance enforced. This keeps property values in place and sends a message to the public that Green Bay is a great place to live.



Report to the
Personnel Committee
of the City of Green Bay

MEETING DATE

March 9, 2021

PREPARED BY

AGENDA ITEM # E.2

Consideration with possible action on the request for reconsideration received from the GBPPA on the decision issued on grievance #20-005 filed by the Green Bay Professional Police Association regarding the removal of an officer from the K-9 Unit.

The Committee may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

1. Personnel Committee (Brief on retaliation & attachments)
2. Personnel Committee - Step 3 - City Response - 2-11-2021
3. GBPPA Grievance 20-005 2.23.2021

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February 11, 2021

Personnel Committee
Green Bay Common Council
100 North Jefferson Street
Green Bay, Wisconsin 54301

Re: Green Bay Professional Police Association's "Lynch Removal Grievance"

Dear Members of the Committee:

Please accept this as the GBPPA's brief on the issue of retaliation. In an effort to assist the Committees, I have attached three documents:

1. The Committee's minutes from its January 26, 2021 meeting;
2. The Chief's August 27, 2020 letter removing Ofc. Lynch from the Canine Unit, and;
3. The Chief's August 27, 2020 Interdepartmental Correspondence documenting that Ofc. Merrill was voluntarily leaving the Canine Unit and would be assigned to Community Policing Unit.

The facts are not in dispute, and are as follows:

- Ofc. Lynch had been a canine handler since 2009.
- Ofc. Lynch's dog was retired at the end of April 2019.
- In May of 2019, Ofc. Lynch was told he was not allowed to attend monthly canine training.
- When Ofc. Lynch sought clarification as to why he was being prevented from training with the Unit,

REPRESENTING LAW ENFORCEMENT UNIONS AND INDIVIDUAL OFFICERS
THROUGHOUT THE STATE OF WISCONSIN.

Offices also located in Arbor Vitae, WI - Vilas County (715) 356-5164



Commander Warych sent Ofc. Lynch an email assuring him that he was not being removed from the Canine Unit, thus Article 3.5 of the labor agreement did not apply, and reiterated that Ofc. Lynch remained a Canine Handler in good standing.

- GBPPA representatives Phil Scanlan and Brad Biller then spoke with Canine Unit Lt. Jody Buth, who affirmed the Chief's statement that the GBPD was not going to replace Ofc. Lynch's dog, as the department's plan was to reduce the number of dogs from seven to five. Scanlan and Biller asserted that Ofc. Lynch would be eligible for the next dog should the department choose to add another dog. But Lt. Buth explained that the Chief would not give Ofc. Lynch another dog as Ofc. Lynch was so close to retirement and it would be too much of an investment in someone that close to retirement.
- On 05-29-20 the GBPPA filed a grievance (2019-003) on behalf of Ofc. Lynch not being allowed to attend canine training. It was denied by the Chief.
- On 06-10-19 the GBPPA forwarded that same grievance to Step 2. It was denied by HR.
- On 08-07-19 the GBPPA forwarded that grievance to this Committee. The matter was heard on 10-08-19, at which time the committee questioned GBPPA President Scanlan, Ofc. Lynch and the Chief. During that 08-07-19 hearing, the Chief confirmed that: 1) Given Ofc. Lynch's seniority as a Canine handler, he would be "next up" for any new canine in the event the Department choose to get another dog; 2) that Ofc. Lynch would receive all the training necessary in the event another dog were to be added to the Canine Unit, and; 3) the loss or death of a dog, coupled with a decision to not replace that dog, would not rise to the level of "cause" to remove a handler, such as Ofc. Lynch, from the Canine Unit.
- This Committee ultimately denied Ofc. Lynch's training grievance.

- The GBPPA then filed for arbitration with the Wisconsin Employment Relations Commission (“WERC”).
- Arbitration was scheduled for 08-27-20.
- On 08-27-20 – *the day Ofc. Lynch’s grievance had been scheduled to proceed to hearing* – the Chief issued his Interdepartmental correspondence removing Ofc. Lynch from the Canine Unit effective 08/28/20.
- Ofc. Lynch had not been disciplined or counseled, nor did he do anything (or fail to do anything) that created “cause” to be removed from the canine unit.
- That same day, the Chief sent a letter to Ofc. Joe Merrill, congratulating him on his new assignment to the Community Policing Unit, thanking him for his service with the Canine Unit, and stating that Ofc. Merrill would be “officially removed from the Canine Unit effective 08/28/20.
- Officer Merrill voluntarily left the Canine Unit and sought assignment to the Community Policing Unit prior to the Chief’s 08/27/20 Interdepartmental Correspondence.

The Association has alleged that removing Ofc. Lynch was, among other things, in retaliation for having exercised his right to appeal this Committee’s decision on the Lynch training grievance to the WERC. *See Grievance*. The basis for that allegation is simple. There existed no reason whatsoever to remove Ofc. Lynch from the Canine Unit *other than* to ensure that he would not be eligible to obtain the next dog (in the event he was successful on his training grievance); after all, there was no cost associated with keeping him on the Unit, given that he was no longer able to train.

Nor was there any reason to remove Ofc. Lynch on the very date that the arbitral hearing was scheduled to take place, other than to send a message to the GBPPA with respect to challenging the Chief’s decision in front of the WERC. In fact, several members of the Committee appear to have recognized at the January 26, 2021 meeting that the timing of removal was suspicious:

Ald. Galvin recognized that it had been 1 year and 4 months that Ofc. Lynch had been without a dog, or a car, or attending training, and questioned Director Faulds why Ofc. Lynch had not simply been removed “the very next month” after he had been denied the ability to train with the Unit. *Minutes of*

01/26/21 Meeting, at 18.

Ald. Dorff stated that “What difference does it make if he stays on or not? Does it cost the city money” He doesn’t have a dog, he’s not going to training or is it just that if there was another dog you might not want to assign him as handler? I’m not sure what the problem is in keeping [him] on the unit.” *Minutes of 01/26/21 Meeting*, at 20.

In explaining why the Chief removed Ofc. Lynch when he did – on the very day of the arbitral hearing – Director Faulds stated that it was simply “coincidental.” *Minutes of 01/26/21 Meeting*, at 17. In Response to Ald. Galvin’s question as to why the Chief had waited for more than a year after Ofc. Lynch had stopped training with the Unit to remove him, Director Faulds stated that the Department was simply “trying to be prudent.” *Id.*, at 18.

H.R. Director Faulds also appears to have mistakenly implied to this Committee that Ofc. Merrill was removed from the Canine Unit in the same fashion as Ofc. Lynch. Director Faulds neglected to inform this Committee that, unlike Ofc. Lynch, Ofc. Merrill had voluntarily left the Canine Unit when it became clear to him that he would not get a new dog.

The retaliation aspect of this claim boils down to two simple questions: 1) why was Ofc. Lynch removed, and; 2) why did it occur on the date that it did?

Director Faulds asserted (in answer to the first question) that the Department was simply trying to be “prudent,” and (in answer to the second) that it was merely “coincidental.” But those answers don’t make sense.

It simply would not have been “prudent” to have kept Ofc. Lynch on the Canine Unit for a year and four months after he had been denied the ability to train, unless the Department actually believed that it had no legal basis to remove him. There must have been another reason, such as the desire to keep him from being the Handler who would get the next dog. As Ald Galvin recognized, if Ofc. Lynch had remained on the Canine Unit “it would be a slam dunk he would get the next dog. If he’s no longer on the team, there is a possibility that he may not do as well in the process as someone else and that he would not get the dog.” *Minutes of 01/26/21 Meeting*, at 20.

Nor would it have been “prudent” to remove Lynch from the Canine Unit because, as Lt. Buth had explained, Ofc. Lynch was too close to retirement. There is no evidence that Lynch had ever advised the Department of any pending retirement, and there is no basis to assume he would retire anytime soon as officers often work well behind their earliest retirement date.

Moreover, the assertion that the timing of Ofc. Lynch’s removal was merely “coincidental” leaves much to be desired. Absent some newfound credible evidence as to why it removed Ofc. Lynch when it did – which has not been provided – the Department’s actions *must* be presumed to be in retaliation for having filed the grievance with the WERC; something Ofc. Lynch and the

GBPPA were plainly entitled to do under §111.70, Stats.

Officer Lynch and the GBPPA would therefore respectfully request that this Committee uphold the portion of the grievance asserting that Ofc. Lynch's removal was retaliatory in nature.

Sincerely,

CERMELE & MATTHEWS, S.C.

Electronically Signed by Jon Cermele
Jon Cermele

JC/can

Enclosures

pc: GBPPA (w/encs. via email)
Joseph Faulds (w/encs. via email)
Lindsay Mather (w/encs. via email)



MINUTES OF THE PERSONNEL COMMITTEE

TUESDAY, JANUARY 26, 2021, 4:30 PM

Virtual Meeting. Public may join via Zoom.

A. ZOOM MEETING INFORMATION.

I. This item contains documents which provide call in information and instructions for the Zoom meeting.

B. ROLL CALL.

I. Members: Ald. Bill Galvin, Ald. Barbara Dorff, Ald. Veronica Corpus-Dax, Ald. Brian Johnson

Present: Barbara Dorff, Veronica Corpus-Dax, Brian Johnson, Bill Galvin,

Others Present: Ald. Lynn Gerlach, Ald. Mark Steuer, Police Chief Andrew Smith, Public Works Director Steve Grenier, Transit Director Patricia Kiewiz, Human Resources Director Joseph Faulds, Deputy City Attorney Joanne Bungert, Commander Kevin Warych, Asst. City Attorney Lindsay Mather, Detective Phil Scanlan, HR Operations Manager Melanie Falk and others.

C. APPROVAL OF THE AGENDA.

Moved by Ald. Brian Johnson, seconded by Ald. Barbara Dorff to move agenda item #5 after item #2 under Regular Business. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, Brian Johnson, No- None, Abstain- None

Moved by Ald. Barbara Dorff, seconded by Ald. Corpus-Dax to approve the agenda as amended. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, Brian Johnson, No- None, Abstain- None

D. APPROVAL OF MINUTES.

1. Approval of the minutes from January 12, 2021.

Moved by Ald. Barbara Dorff, seconded by Ald. Veronica Corpus-Dax to approve. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, Brian Johnson, No- None, Abstain- None

E. REGULAR BUSINESS.

1. Consideration with possible action on the request to fill the following replacement positions and all subsequent vacancies resulting from internal transfers.

a. Building Maintenance Technician - Public Works

Moved by Ald. Brian Johnson, seconded by Ald. Veronica Corpus-Dax to approve. Motion carried.

Yes- None, No- None, Abstain- None

2. Consideration with possible action to approve the 2021-2023 labor agreement between the City of Green Bay and Local 420, Bus Mechanics.

Moved by Ald. Barbara Dorff, seconded by Ald. Brian Johnson to approve. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, Brian Johnson, No- None, Abstain- None

3. Consideration with possible action on grievances #2020-003 and #2020-004 filed by the Green Bay Professional Police Association regarding the flexing of schedules for specialty team training.

The Committee may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governing body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

Moved by Ald. Barbara Dorff, seconded by Ald. Veronica Corpus-Dax to go into closed session.

Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, No- None, Abstain- None

Moved by Ald. Barbara Dorff, seconded by Ald. Veronica Corpus-Dax to return to open session.

Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, No- None, Abstain- None

Moved by Ald. Barbara Dorff, seconded by Ald. Veronica Corpus-Dax that staff proceed as discussed in closed session. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, No- None, Abstain- None

Out of closed session, Ald. Galvin announced the findings and conclusions made by the committee and that the grievance is denied. Ald. Galvin further explained that the written findings of fact and conclusions of law would be made available for the City and the Police Union.

Moved by Ald. Barbara Dorff, seconded by Ald. Veronica Corpus-Dax to adopt the findings of fact and conclusions of law as reviewed by Ald. Galvin. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, No- None, Abstain- None

4. Consideration with possible action on grievance #20-005 filed by the Green Bay Professional Police Association regarding the removal of an officer from the K-9 Unit.

The Committee may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governing body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

Moved by Ald. Barbara Dorff, seconded by Ald. Veronica Corpus-Dax to go into closed session. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, No- None, Abstain- None

Moved by Ald. Barbara Dorff, seconded by Ald. Veronica Corpus-Dax to return to open session. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, No- None, Abstain- None

Moved by Ald. Barbara Dorff, seconded by Ald. Veronica Corpus-Dax that staff proceed as discussed in closed session. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, No- None, Abstain- None

5. A request by Ald. Brian Johnson to the Personnel Committee for an update on the alderperson orientation program that was submitted approximately two years ago.

Moved by Ald. Brian Johnson, seconded by Ald. Barbara Dorff to refer to staff for additional content and to schedule a demo program in April. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, Brian Johnson, No- None, Abstain- None

F. INFORMATIONAL.

1. Report of routine personnel actions for regular employees.

Moved by Ald. Barbara Dorff, seconded by Ald. Veronica Corpus-Dax to receive and place on file.
Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, No- None, Abstain- None

2. Next meeting date: February 9, 2021

G. ADJOURNMENT.

Moved by Ald. Barbara Dorff, seconded by Ald. Veronica Corpus-Dax to adjourn. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, No- None, Abstain- None

VERBATIM MINUTES

- Everyone's here? We're all ready to go? Are we recording?
- Yes, you are.
- It's January 26th. This is the Personnel Committee meeting. We'll start out with roll call. Alder Dorff?
- Here.
- Alder Corpus-Dax?
- Present.
- Alder Johnson?
- Here.
- Okay, and then we're going to get on to approval of the agenda.
- Move to proof.
- Second.

- Okay.
- I would like to make an amendment, move to make an amendment to move item number that's it number to number three. So it would be the third item on the agenda.
- Second, any second.
- Second.
- If I can make a comment on that chair?
- Sure.
- So other members of the committee, as well as staff I did contact Alder Galvin and explained to him that I actually have a family conflict this evening. And so, unfortunately, just based on the timing it might be convenient for me to exit after that item. And I asked him if I should find a substitute given the other grievance hearings and he indicated that it probably be best just that the three of you proceed with that rather than having a substitute come in place. So that's why I'm requesting that, that item be moved ahead.
- Okay.
- Would you like it first?
- No, I have enough time to take up those first three but I wouldn't have enough time to get into the next two.
- Okay.
- Okay, so.
- All right, so I have a second? All those in favor?
- Aye.
- Aye
- Aye.
- We have to vote on it amended? I mean, can we just amend it then now we have to vote on it again? Yes, I'm getting a yes.
- Okay so now.
- Vote to approve the amended agenda.
- Second.
- All right, all those in favor?
- [Alders] Aye.
- Any opposed? That passes unanimously. Onto approval of the minutes. Any coalitions concerns?
- Motion to approve, second.

- Okay I've got a motion to approve and a second.
- All those in favor, say aye.
- Aye.
- Any opposed? And the ayes have it. Onto regular business. All caught up staff?
- Yep, we're good.
- Yes, ready to go? Okay, number one, consideration with possible action on the request to fill the following replacement positions in all subsequent vacancies resulting from internal transfers. Does anyone have any questions for staff?
- No questions.
- I'll entertain a motion.
- Second.
- All right, all those in favor say aye.
- Aye.
- Aye.
- Aye. Okay, any opposed? All right Item number two, consideration with possible action to approve the 2021 2023 Labor Agreement City of Green Bay and Local 420 Bus Mechanics. Does anyone have any questions for staff on this?
- I move to approve.
- Second.
- Okay, a move and a second. All those in favor, say aye.
- [Alders] Aye.
- And that passes unanimously.
- So Alder Galvin, I just have a clarification. Did we switch two and three or did we switch a different item that I'm not aware of?
- Five will now be number three.
- Okay, five will be number three. Thank you for that.
- All right, so scoot down for number five. And that is a request by Alder Johnson to the Personnel Committee for an update on the Alder Person Orientation Program that was submitted approximately two years ago, Alder Johnson.

- Yeah maybe if we could defer to staff if Director Faulds you wanted to maybe touch on because you had submitted some information to members of the city council. Why don't I let you maybe just touch on that? And then I do have some recommendations of some modifications I would go through after that.

- Sure, that sounds great. So a packet was submitted to the Common Council for your review. I went through a lot of things like with alders go through the process of meetings, go through a lot of information about the rules and guidelines on what they can do as an alder. And then also I think it was some contact information for city staff and we're still working on to get from each department a summary of what each department does and who to contact in those departments. And I think it was like our ethics statutes and then also our code of conduct and then there was also, I think a PowerPoint presentation that's usually given on quasi judicial hearings. So I think that was kind of the rundown with information that was sent to you. The orientation was going to go through Robert's rules of order, some technical presentation on like how to use a request for service, how to use better use of civic clerk and then really just kind of open up the floor for alders ask any questions about what they would like to discuss at that orientation. It'll be a little different than I think a traditional orientation where it's not going to be a lot of meet and greet and introductions, but it'd be a lot more of just training and understanding the roles better.

- So, and I appreciate the hard work that you guys have put into this so far Director Faulds. I think this is a great start. You know where this really started for me when I was in my first term, I was struggling to understand how a number of things worked. And I was talking to several other alders both existing and previous who all said, yeah my first term, that was, I'm learning how things work. And to me, I looked at that as an incredibly inefficient use of time, meaning that if there's something that we can do to bring newly elected city council members up to speed more quickly I think that allows them to be more effective. I think staff can better lean on the talents of our alders and it better serves our community. To me this is kind of akin to anytime that you join a new board of directors typically they'll put you through a board orientation it's a training to bring you up to speed on just basic things, right? You don't have to go into great detail. So I do think that list was a great start. There are a couple of other things that I would encourage us to add and perhaps this will come when the other departments provide a little bit more context to what they do and I'll email these to you Director Faulds but something additional that I would like to see is maybe some budgeting and how TIFs work. You know, I've seen it a number of occasions where perhaps at least the dialogue that has occurred at city council has suggested that maybe not all members of council fully understood how TIFs work yet they were casting votes on very, very important decisions. And again, maybe I've misinterpreted some dialogue but I think that there's an opportunity there I mean I think we can all agree that TIF is probably one of the most widely misunderstood development tools. So I think if we can provide that level of overview that would be great. And I would hand-in-hand with that things like what's the difference between a PUD, a CUP I mean, those are all things that we vote on regularly, zoning ordinances. What's the difference between different types of zoning? I think having some links to some of our master plans. So whether it be our comp plan or bike pad plan the comprehensive parks plan that we just passed I think those are important in term sheets, development agreements. One thing I noticed that wasn't in there that's typically included in these is our charter ordinance. So, what are we founded on and how do we operate? You know, one thing as well that I think seems to be widely misunderstood by the public at least, and maybe this isn't the case for all alders but Municipal Court. And how does Municipal Court intersect with the city of Green Bay? And then another thing that I would also touch on is kind of the different enterprises that we have like the water utility transit, what the difference is between the commission and authority and a committee. And then one last thing that I would just maybe touch on because I've heard this brought up in conversations a number of times is references to either operating procedures or we've all heard it sometimes, per pass practice, this is what we've done, but is it a rule that you have to do it that way? You know, so is there, I've oftentimes heard us again reference these procedures and policies that exist but I have to admit I've never seen them. I don't know if they exist. If so, things like who controls an agenda? What are the roles and responsibilities of a member of city council? Almost like a position description. So I think if there are rules and policies and guidelines that members of city council are expected to follow we should probably know what they are. And so if those things actually do exist somewhere, I think that would be an important thing to include. So again, Director Faulds, I'll email you this list and I'm sure I'll think of more things. And to me, this is meant to be a fluid document. We should be able to

add to it as time goes on, we're going to learn things, things are going to change, but I think like I said, this is a great start. I commend you and the staff for pulling this together. You know, next step to me would be implementation.

- Alder Dorff.

- Can I ask Alder Johnson a question about it?

- Sure.

- Are you envisioning this as like a week long seminar or just a document, a semester course? I mean, it's just like, that's a lot. Or are you just thinking it's here's a document, here's a bunch of stuff.

- I would see it being a hybrid and I think including it, right, because you're not going to go through a comp plan, I mean in a meeting. So, I mean, I think if you link to those important documents here's where they're found, here's their relevance, here's why they're important. But generally when you go through new board member orientations, that can take a few hours and I think to me that's a very small commitment when you're bringing on a newly elected representative that you want to be able to have hit the ground running.

- Oh, I agree. I mean, I went to a day long seminar. I was given that opportunity and it was free. And so it was a day-long seminar on local government. I learned almost all of those things you talked about were brought up but I think that was the year that I was elected that I had that opportunity. And I think it was put on by the League of Municipalities or something like that. So, yeah, but it was a commitment of a whole day and it was great. And I still learned, this is my third term. I still learn stuff. I still learn stuff all the time. So you're never going to cover everything, but you're right. Some of these basics are pretty important to cover. And I think there's a lot of mentoring that goes on between sitting members of council and newer members. I think that that's also an important piece but having a big document might be good too.

- Yeah and I think you've just hit on another item that would be worthwhile including, if there are those professional development opportunities through the league or other resources we should have it documented that here's where they are and this is what you need to do to enroll for it. But again, Alder Dorff to your point, I agree there's a lot of mentorship, a lot of learning but if we can turn that two year learning curve and to say six months, I think that would be a good thing.

- Alder Corpus-Dax was up next and then Alder Steuer.

- So I agree with Alder Johnson. I think this is a great start for training material for new alders, even existing alders. And I agree with a lot of the suggestions that he made. I'm wondering, I like the idea of having this all in one location, hyperlinks to the different documents that, need to be, that are a part of the training. But also I'm wondering if if let's say we do this in a like a six month type training session ongoing training session, some of these things that we're talking about as far as like, what's the difference between a PUD and CUP and going over the budget information, should it be set up that new alders within those first six months or first four months meet with each director and they go over these things with those alders, should that be just part of an ongoing training process for them over the six months? Maybe they sat down with finance for two hours or whatever in their first month and then the next month it's community and economic development, the next month it's EPW so on and so forth.

- I agree.

- Alder Steuer and then Alder Gerlach.

- Thank you, chair. These are all very good points and I commend Alder Johnson for bringing this forward. There's one thing that I would even be willing to do if that's something that some of the other alders would

like to do, I would be willing to write up several pages of my experiences good, bad and indifferent of things that I've gone through things, that I'd thought I knew but didn't know, just to share my experiences. And I know for example, Alder Gerlach when she came on board, she met with all the department heads. I did that as well. I think it's important to be proactive when you become a public official, but again gather as much data as you can ahead of time. I had a little bit of a headstart because I worked for the city for 25 years so I already had a pretty good sense and a good feel for how the government worked but there are still things that I had to learn and some things that I still fall maybe a little short on but I'd be willing to do that. I don't know if that's something that would help Director Faulds as well. I think having the council understand Robert's rules also the standing committees, how important they are. There's other committees that are not standing committees. But what purview they have and how important they are. There's numerous other committees that are not standing how they fit into the big scheme of things as well. So yeah, there's other things too I could talk about but that would be my main thing. I know Alder Dorff mentioned that she had a training session. I did as well when I first started that was like nine years ago. And it was an all day thing and I got a handle on it, but that was it. You know, that's the only thing we ever had. So granted budgets are such that, we don't have a lot of money for things like that but even if we had links or training videos or things like that, refreshers, I think that's all very important to tell. Again, thanks Alder Johnson and happy birthday.

- Thank you.

- Alder Gerlach.

- I was just going to also thank Alder Johnson I think this is a very good idea. And just briefly tell you about my experience because I did take the League of Municipalities course. I didn't take it in one day. I took it in four separate courses and that was helpful but I met with nine directors before I was elected. I met with them when I was running for the office. and so I met with Director Faulds. It was Director Grenier who explained to me what TIFs and TIDs are. I met with Kevin Warych and Director Ellen Becker Director so many of them that Chief Linton actually had a PowerPoint presentation already for me. And he told me this was his alder orientation PowerPoint that he had given before. And it, I guess the things that really stick out in my mind are that, every single one of them was so excited that I wanted to come and meet with them. And they were just so excited to tell me about their department and their work. It was a very, very positive experience. It would have been very valuable even if I didn't get elected. So that part, meeting and hearing from the directors and asking them questions was really, really valuable.

- I agree. This is something that's been a long time coming. I would anticipate it is going to be like Alder Johnson said something of a hybrid, where there'd be a range classes, but again trying to get alders together sometimes it's going to be like herding cats. And we have offered some training in the past, some alders have refused to attend and I mean, that's on them but I think getting a lot of this information down really helps the alders hit the ground running and better able to do the job that they signed up for and make them more effective sooner on. You can see there's a learning curve with new alders and it takes a little while for them to get their feet under them and started getting really involved in their duties. So I encourage staff to keep moving forward with this. I know it's going to be more time on your hands but it might be easier too, instead of doing it by onesies that maybe you get a group in together all at one time, to cover all the same material then everyone would be on the same page. So one of the next step that.

- Yeah so I would, the other thing I just allude to is the importance of having this stuff documented so that it can be referenced. So I was actually listening to Alder Dorff mention how she went through a training with the league and Alder Dorff was elected before me. And then Alder Gerlach mentioned, she went through a training with the league and she was elected after me. And I knew nothing of such a training. Right, so that's one of those things that just gets lost depending on the conversations that you might have with people. And so I've never taken that training with the league. I'm glad to know now that it exists, it's certainly something I'd like to do, but it was just a missed opportunity, I think because it wasn't documented somewhere and kind of given alders to say, hey, here's an exhaustive list of things that you could or should take advantage of. To me next step would be, I'll give this list to Director Faulds. One of the things I think I'd like to do to ensure that it

doesn't just fall off the radar is maybe we could table it and then we could bring it back off the table once staff has had an opportunity to perhaps populate with these additional items. So that way it's not just receiving place on file and it's lost, I'd still like to see the updates that are made to the program, but it would take a specific action by this body for us to revisit that item then.

- Would you like to have staff get back to you or maybe I should ask a Director Faulds, when do you think you'd be able to put something together to go over with Alder Johnson or with this committee?

- So I think I agree with Alder Johnson like it's going to be a fluid document. There's going to be a lot of information that you can I think Alder Dorff was saying it could be a week long seminar, it could be a course, I mean, a full semester. So I guess one hesitation I have is I would like to get something on the calendar and some type of orientation put together, even if it's not perfect in the sense of, I'd rather do two or three of these versus wait another three to make sure it's perfect and we get everything on that Alder Johnson. So that's what I would propose. I will be off on leave, I've shared with the council in the next couple of weeks. So either in early February, we can try to get, something started to go over some of the topics or maybe early March and we get more of the topics and that Alder Johnson proposed.

- Director Faulds how long is your leave?

- I would anticipate, .

- Well I'll tell you why, because I'm not asking that question to pry.

- Oh I know.

- So much as to say, if we did, I want to give you enough time to perhaps add this additional content. If we say let's plan like a test run for some time in April. So that way you have enough time to pull this additional content together, really, figure out how you'd like this to work. It's one year before the next election and swearing in of people. So it gives you another year then to fine tune it. Would that work for you?

- Yes, April would work.

- Okay. So that'd be my motion is that we refer this to staff for additional content population with the intent to schedule a demo run in April.

- I have a second?

- Second.

- All those in favor, say aye.

- [Host] Aye.

- And maybe as an amendment if we do schedule a week long seminar maybe it'd be somewhere Caribbean oriented, maybe.

- I accept that.

- That'd be great.

- Just saying, all right.

- Chair I'm going to take my leave now, but thank you.

- All right and happy birthday.

- Thanks.

- All right, Alder Johnson is leaving the meeting and that leaves the three other alders. We're on to item number, let me just get it up here. Item number three, consideration with possible action on grievances number 2020-003 and 004 filed by the Green Bay Professional Police Association regarding the flexing of schedules for specialty team training. I believe Attorney Mather will be going into closed session right away, one moment. Okay.

- That's correct. Yes, we just heard for their deliberations, we don't really have any, the committee didn't have any questions for the parties.

- Correct, so we have no questions so I'll look for a motion.

- I move that we go into closed session.

- Second.

- Okay.

- Should I read the language?

- All those in favor, say aye.

- [Alders] Aye.

- And Alder Dorff if you'd read the language.

- Okay. The Committee convenient closed session pursuant to section 19.85 sub 1A Wisconsin Statutes for purposes of deliberating concerning a case, which was the subject of any judicial or quasi judicial trial or hearing before that governing body. The Committee will thereafter reconvene in open session pursuant to section 19.85 2 to Wisconsin Statutes to take action on items discussed in closed session if appropriate and to consider the remainder of the agenda.

- Okay, let's close it up. All those in favor, say aye.

- [Alders] Aye.

- Non opposed and that motion carries. We're now back in open session and I will entertain another action.

- Yes, I move that we proceed as discussed in closed session.

- Second.

- All right. All in favor of this say aye.

- [Alders] Aye.

- All right that passes unanimously. I have before me some sheets containing findings of fact and conclusions of law and beg you indulgence as I read through these. And also both parties the bargaining unit and the Chief will be getting copies of these from staff as soon as they're available. Two grievances 20-003 and 20-004 jointly

came before the Personnel Committee and were heard together on January 12th, 2021. The purpose of the evidentiary hearing was to determine whether the City of Green Bay violated the Labor Agreement between the city and the GBPPA bargaining unit Labor Agreement by requiring Detectives Phil Scanlan and Kevin Kempf permission prior to attending SWAT Team training outside of the normal work hours and that would be grievance 20-003. And by required requiring Officer Tim Kenny to similarly obtain permission prior to attending Dive Team training. Findings of fact, one, this matter was heard by the on January 12th 2021 at the meeting that was first available after filing. Two, the parties were provided an opportunity to submit written documentation in support of their positions which documents were admitted into the record and considered by the Personnel Committee in making their determinations. Three, requested a fact finding hearing and the Personnel Committee similarly determined that a hearing was not required in this matter. However, both parties made oral arguments in support of their written submissions at the meeting of January 12th, 2021. Four, the Personnel Committee took this matter under advisement and continued the matter until January 26, 2021. Five, the relevant provisions of the Labor Agreement in deciding this grievance are Section 1.2 Management Rights, Sections 2.1 and 2.22, relating to purpose of agreement Section 7.4.1 sub E, pertaining SWAT Team training Section 7.7.1 sub C and sub D, pertaining to Dive Team training and Section 7.21 maintenance of two person buffer. Number six, Section 7.4.1 sub E provides in relevant part that the compensation for SWAT Team training shall and I quote, shall be actual hours at the time for time via payback for those on their off time training plans and schedules must be approved by SWAT supervisory personnel. SWAT Team officers may flex their workday to attend training in accordance with 7.21. Number seven, Section 7.7.1 sub D provides and I quote, members may flex their workday or receive payback compensation for attending or conducting the dive related meeting and or training on their workday. Members attending or conducting dive related meetings equipment maintenance and or training on their off time shall be compensated at time for time payback. Supervisor approval shall be required prior to any member flexing their hours or performing duties on their off time. Number eight, Section 1.2 Management Rights provides in relevant part that and I quote, the union recognizes the prerogative of the city subject to its duties, to collectively bargain to operate and manage its affairs in all respects in accordance with its responsibilities and the powers and authority which the city has not abridged, delegated or modified by the agreement are retained by the city including to determine reasonable schedules of work, to establish the methods and processes by which such work is performed and to establish reasonable work rules. The city agrees that it may not exercise the above rights prerogative power or authority in any manner which alters, changes or modifies the terms of this agreement as it administer. Number nine, on June 2nd 2014 then Captain Paul Ebel sent a communication to special unit commanders regarding training and flexing of shifts, special units, which stated that special unit officers have the ability to flex your schedule in order to attend the training or they may choose the work their shifts start up training and attend the scheduled training and that officers need to inform their commanders of their intent to flex their shift or work their shift at a minimum of 10 days prior to any scheduled training. Number 10, in August 2020 Detectives Kempf and Scanlan on both who are members of the SWAT Team both began working their normal scheduled work day at 7:00 AM. Number 11, also an August 6th 2020, SWAT Team training was scheduled from 11:00 AM until 7:30 PM. Number 12, the parties agree that Detectives Kempf and Scanlan did not obtain supervisor permission to flex their schedules or work a portion of their normal shifts prior to the start a SWAT Team training at 11:00 AM. 13, Detectives Kempf and Scanlan were dismissed from SWAT Team training at 3:30 PM after working a full shift. 14, on August 11th 2020, Officer Kenny a member of the Dive Team began working his normal schedule workday at 6:15 AM. 15, also on August 11th 2020 Dive Team training was scheduled from 11:00 AM until 7:30 PM. 16, the parties agree that Officer Kenny did not obtain supervisor permission to flex his schedule or work a portion of his normal shift prior to the start of Dive Team training at 11:00 AM. 17, Officer Kenny was dismissed from Dive Team training at 2:45 PM after working a full shift. 18, the GBPPA argues that officers can not be forced to flex their hours to attend specialty training rather than working their normal work hours prior to the start of the training and then attending the full training and receiving payback compensation. 19, the GBPPA also alleges that the city is discriminating against Detectives Scanlan and Kempf and Officer Kenny by permitting other members of the SWAT and Dive teams to receive payback compensation for attending training. The record is silent as to whether any such other SWAT had permission to do so. 20, the city argues that officers cannot flex their work schedule to attend specialty team training without supervisory approval as required by the unambiguous language of the Labor Agreement. Conclusions of law. Number one, this grievance is properly

before the Personnel Committee pursuant to Article Three of the Labor Agreement. Number two, a hearing on this matter was timely conducted in accordance with Article Three of the Labor Agreement. Number three, unambiguous contract language controls the interpretation of contracts in *Horizon Bank National Association versus Marshall's Point Retreat, LLC* 2018 Wisconsin 1951 380 Wisconsin Second 16 908 NW2D 797 citation omitted. Number four, court will look at the ordinary meaning of the contractual language and if it is unambiguous, the contractual interpretation remains within the four corners of the contract. A contract is ambiguous when it is susceptible to more than one reasonable interpretation. This is *Tom Bank versus City Real Estate Development LLC*, 2010 Wisconsin, 134 33 330 Wisconsin second 340 793NW second 476. Number five, a contract is ambiguous when its terms are susceptible to more than one interpretation, *Mendez Chapman versus BC Ziegler and company* in 2013 Wisconsin pellet 127, 2351 Wisconsin second 123 839NW second 425. Six, Section 7.4.I sub E unambiguously requires all SWAT Team members to obtain supervisory approval prior to flexing their workday to attend training or attending training on their off time. Seven, Section 7.7.I sub D unambiguously requires all Dive Team members to obtain supervisory approval prior to flexing their hours to attend training or attending training on their off time. Number eight, because the Labor Agreement unambiguously requires officers to obtain supervisory approval and neither Detective Kempf, Detective Scanlan nor Officer Kenny obtained permission to flex their hours to attend training or attend training on their off time their supervisors were justifying sending them home at the end of their eight and a half hour workday. Number nine, there's insufficient evidence to substantiate the GBPPA's allegation of discrimination by the city as the GBPPA has not established that the other members of the SWAT and Dive teams were similarly situated to Detective Kempf and Scanlan and Officer Kenny. Approved by the Personnel Committee on January 26, 2021 Chair William Galvin of the Personnel Committee. So, like I said, this will be, you'll be getting copies of this and you'll be able to move forward as you see fit for each of your different organizations.

- Thank you.

- And.

- Thank you for your time. I understand there was a lot to read there, I appreciate it.

- Well this was one of the more, I'd say involved cases that we've ever been involved with so far and the research and the amount of discussion that went into this was pretty extensive. So, all right. So with that said, we're going to move on to item number four.

- Excuse me.

- And this is another grievance. I'm just wondering if it would be appropriate or okay for us to take a quick five minute break. I mean, I understand all of you folks were basically in timeout room for a while there but the Committee has been at this since 4:30 and I think we could use a quick five minutes if that's okay with everybody.

- And Alder Galvin can you guys hear me?

- Yes.

- Okay, sounds good. Is there any type of motion we need about the adopting the findings of fact and conclusions of law and that would be for Lindsay or Joanne to answer?

- Yeah, probably.

- All right. I would entertain a motion then.

- Okay, I'll move that we adopt the findings of fact and conclusions of law as read by Bill Galvin.

- Second.

- All those in favor, say aye.

- [Alders] Aye.

- Any opposed? And that carries. All right we will be recessed and back here at stay 6:28. Imagine everyone's here.

- Well the Committee is here so, let's go on, move on.

- Right, I see okay. I see and Joe's here so these are the two main players. So we'll get going with this. Our last item on the night is item number well no, our last item for this section is item number four and that's consideration with possible action on a grievance number 20-005 filed by the Green Bay Professional Police Association regarding the removal of an officer from the K-9 unit. The Committee may convene in closed session pursuant state statutes for deliberating concerning a case which was the subject of any judicial or quasi judicial trial or hearing. Attorney Mather or great Attorney Mather you're going to be conducting this?

- I believe the parties are going to make arguments on this one first, before you go into deliberation.

- All right. All right, then who's up first.

- Do you want me to get open the floor? Do I have to open the floor for it or not?

- No, I apologize Alder, I didn't prepare a script. For today I would suggest to I believe the grieving usually goes first and I would suggest setting a time limit on each of the parties and allowing a few minutes for rebuttal as well.

- All right, I think last time, I think we did what 10 minutes and then five minutes of rebuttal.

- All right. I know how to work this part of my phone at least. I have a timer here. We'll set her for 10 minutes. Detective Scanlan, Phil Duke, are you ready to go or do you have someone else who's going to speak for you?

- I'm here to speak on behalf of the association. And I also have officer Matt Lynch here as well should the Committee have any questions for him?

- All right, whenever you're ready to go let me know and just start off.

- Yeah, thank you. Thank you. I'll try to be quick. We're here to address grievance 20-005, it's for the removal of Matt Lynch's a K-9 handler. I trust you have the grievance. It's the grievance head and it's a couple of page documents supporting the summary and the facts. And I just wanted point out a couple of points. I'm going to put my mask down, sorry. In the facts cited, we refer a couple of comments specifically made by the Chief during Officer Lynch's previous grievance that occurred on August 7th 219 in front of your committee. And I cited a couple of the Chief's comments and I just wanted to source that. So the source for those comments that the Chief made that we cited as fact in our grievance is from the minutes of the Personnel Committee dated Thursday October 8th, 4:30 PM. It's from that original grievance for Matt Lynch's training grievance that so many of you were on, were present. Some of you might not have been I don't recall exactly who the committee was. I mean, I would just like to draw attention to a couple of points, that minutes is quite lengthy. I started with the front pages page one I would hope that you guys can access this in your deliberation if you need to. And then essentially at page 15, which has referred to one of the verbatim minutes, there was some discussion in Matt Lynch's training grievance regarding his right to train K-9 after K-9 been, and I'm going to

just kind of quote a few things at one point and this is coming from the minutes on alderman asked or an alder person asked the question how come you don't just eliminate the position? That was the question for the Chief. And the Chief's response was and I'll quote, well, it's a specialty unit position and we cannot remove by the contract, we cannot remove anybody from a specialty unit assignment without cause and losing your K-9 or having your K-9 die and not being able to replace that K-9 is not cause to remove them from a special unit position. That was in regarding officer Lynch at that time, why he wasn't removed from the program at that time. Page 16, an alderman asked the question I would ask out here is what if one of the K-9 dogs dies tomorrow? If we were to replace it who gets replacement dog, officer Lynch or the officer who? That's the end of the question, Chief Smith replied it makes sense if it go to a senior person and so that would be Officer Lynch. The senior person that's still part of the unit and that would be Officer Lynch, that's page 16. Page 17 and one of the members of the committee asked, okay, so if I understand this correctly contract says that you cannot remove unless for cause, not having a dog is not cause. If another dog dies tomorrow Matt would be able to bid for that by seniority or would he get it by seniority? Chief Smith's response, he would get it. It's my understanding he would. Committee member asked, so if he doesn't train for a year and another dog dies okay and say, the city prevails he doesn't train for year and another dog dies. There was some discussion about that. The Chief's response he referring to Matt Lynch would have the first option to get that dog. He would, we would purchase a dog or make arrangements to purchase the dog. He referring to Matt Lynch, would then begin training with the K-9 Unit until the dog is ready to be picked up. He referring to Matt Lynch would go to the vendor. He would receive training onsite in the vendor and he would come back here. We'd make sure that everything was squared away and if he was comfortable and that he was certified and then would put him in the field to work. That's Chief Smith. Page 18, another quote from the Chief because I think officer Lynch wants to continue to be K-9 officer and we've said that he is part of the K-9 unit he talks briefly about a K-9 decoy which is not really applicable but he continues, he's up next. If the K-9 is purchased that's why he's still part of the unit. We just don't think that the contract should have forces to make him go to training essentially what he continues. Those were all quotes that from the Chief that he argued in front of this committee to say that Matt Lynch is a member of the K-9 Unit and will get the next dog he made those arguments in support of not allowing him to attend training without a dog in order to get the city to agree, to deny our grievance. So I'm not going to regurgitate the whole grievance. I understand you have it. I just wanted to cite the source of our facts that said the Chief made those statements. We believe that the Chief and the city did not have cause to remove Matt Lynch. That's our basis of belief on our contract and also the Chief's own words. So we would ask essentially that the Personnel Committee approve our grievance and put officer Lynch back on the K-9 unit. How am I doing for time? Am I done or do I have a minute?

- You got five minutes, Phil. I mean, if you want to wax poetic, go at it.

- Sorry, I'm talking fast I apologize.

- Oh that's fine. Take your time, you've got plenty of time, Phil.

- Okay, one thing I'd also like to, I would like the city to consider is that officer Lynch's dog George retired on April of 2019, on October of 2019 this committee heard his grievance for his request to continue training. That grievance was denied by this committee. We respectfully scheduled it for arbitration with the WRC and Matt Lynch remained a member of K-9 unit in good standing for, let me see from April 19 to August of 2020, which is over a year and four months before the day before he was removed from the unit. And I guess I can't, I tried to find a reasonable basis of why that decision was made 14 months post haste. It cost the city no money to leave Lynch in the unit and get the next dog as the Chief described. The city's obviously in the presumption that they're going to win the grievance that Matt Lynch shouldn't be allowed to train that that this Personnel Committee already heard. And if the city wins this grievance, it costs the city no money to leave Matt Lynch on deck. There was volumes of testimony in that hearing about the amount of money it took to train Matt Lynch and get him his experience and the city by removing him threw all that away because it essentially took his ability to take the next dog completely contrary to the Chief's testimony in front of this committee. Now, assuming the opposite would occur if for by some small chance, the association wins that arbitration and Matt Lynch is allowed to train, resume training the only cost the city will they have to pay to

train he'll have to be on duty and train or pay him to train without a dog. And I find nor the reason or basis to think that he wasn't removed but for he filed this grievance. This grievance, this removal was on the day of his scheduled arbitration WRC. I think that is symbolic. I think you can't unring that bell to remove a person from a day that they were scheduled to go in front of an arbitrator, I think is a bell that can't be unrung and it was a symbol sent by the city that he shouldn't have filed this grievance. And that's the association's position we understand that's probably a little more aggressive position we've taken with grievances with the city, but I think the facts of this case, I think warrant that. So I'll feel any questions, but I think the grievance itself is sound and we'd asked the committee to reassign Matt Lynch to the the K-9 program.

- All right. Does anyone on the committee have any questions for detective Scanlan? I have a question, Phil. So if Matt is no longer on the team and a dog dies, gets retired, whatever and this city is going to buy another dog is the fact that Matt is no longer on the team affect his ability to get that dog?

- Correct it actually stops his ability to get that dog. He no longer qualifies for that dog. In fact, the Chief was specific in his letter and told Matt Lynch that he could reapply like any other candidate for the position.

- Okay. So if he has to reapply like any other candidate does I mean, is there a possibility he wouldn't have, and I'm going to, I have ignorance here with the K-9 program. Does he have the seniority and everything else that's required for a K-9 handler to be a handler.

- Under the article the contract it's a merit based assignment which means he would have seniority points, he would interview. He would have to interview. He would have to do well enough in his interview based on a point based system to win the interview. So he essentially is an experienced candidate he was removed for cause I think the right for him to reapply is inconsequential to the to the removal argument. He was removed from a position against direct contradiction of the Chief's own testimony on the day he was supposed to have a WRC hearing. I think whether or not he can reapply just as I could as a detective I think is irrelevant and I don't think he should have to.

- Okay, so if he was left on a team, it would be a slam dunk he would get the next dog. If he's no longer on the team, there is a possibility that he may not do as well in the process as someone else and that he would not get the dog. In addition is there any contractual language because I don't have your paperwork right in front of me. Did you cite any contractual language that says he stays on the team in perpetuity?

- Yeah so under the K-9 language there's prior to a certain date and I can pull the contract and read it in front of you. I think it's in the grievance. I'm sorry. I don't have it memorized. So I'd have to that.

- Yeah, no, take your time Phil, take your time.

- I want to grab the contract over there. Anyway I can explain it before I get to the article. When we renegotiated the contract, I believe it was 2016, we added with new handlers post 16, there is a term limit. They get, I think it's two dogs or 10 years. And it was specific language to new K-9 handlers after that date, which grandfather the original as part of negotiations that grandfathered handlers prior to that date, under the old rule, which means they get dogs until they stepped down, there was no term limit. And that is out of the K-9 article in Article Seven. And then obviously we cited Article 3.5. I believe it is, which is the removal for cause and it's simply like the Chief testified the Chief testified Matt Lynch would get the next dog if he stayed in the unit, but for he was removed.

- So when you say removal for cause you mean, you feel management has to show a reason as to why he was removed.

- Yeah, so Article 3.5 of the Labor Agreement, Article 3.5 of the Labor Agreement says there has to be cause to be moved from a specialty unit and its sites cause as performance-related issues not coming to for call-ins and it don't quote me like I can find it all performance related issues is a citing for cause. And the Chief

testified to that in front of your committee that that is indeed the case. And Matt has not been disciplined. Matt has not been given any performance plans. Matt has a clean disciplinary record. And again, I go back to the Chiefs on the testimony that that was the case.

- All right, thank you.

- Yes, Alder Dorff.

- So I have one question and I read in the grievance Lieutenant Booth told both Scanlan and Biller that the Chief would not give Lynch another K-9 as he was so close to retirement and it would be too much of an investment in someone that close to retirement. Is that discriminatory or is that a valid reason?

- Well, that's what he told us. And I don't know if there's been any dispute of that but he told us that Detective Biller and I that and it's not-

- So you're not disputing that, you're not saying that that's any reason why this is coming forward, that you don't want-

- Well, I think let's leave it to let's leave it to a totality of circumstances perhaps. Matt was on the team 14 months after his dog was retired. We have this conversation with Lieutenant and he tells me he's not getting him a new dog he's too close to retirement. And then the day of an arbitration hearing he's removed for cause in direct contradiction to the Chief's testimony, complete contradiction that's in the minutes. So there's a reason why he's was removed. And we'd argue it was without cause whether it's because he's so close to retirement it's investment, it's not a reason. Matt could choose to work until 55 if he wanted to, there's, Matt has given no indication that he's going to retire. I mean, I think we need to be careful when we start talking about end dates for law enforcement. Some of the finest officers in our department were fine officers right up until the day they retired. And to imply that someone should be given a position strictly because the point they are in their career I think that's probably not a good policy to have when it comes to your employees. And I admit those were Lieutenant Booth's words not the Chiefs, but Lieutenant Booth told us that.

- Okay, thank you.

- Alder Corpus-Dax?

- I don't have any questions at this time.

- Okay. All right, thank you very much Detective Scanlan. Now is the Chief wanting to speak or Director Faulds?

- I'll start off and then Chief Smith can join in. So the position the city has taken is that the contract language is silent on what happens to the K-9 unit when a dog is eliminated. So the city retains the management rights to remove an officer if the individual no longer has a dog partner. So the committee ruled in 2019 that an individual cannot attend training without a K-9. Then almost a year later in 2020 we have officer Joe Merrill who's also in the K-9 unit, his dog retired and he moved on to a new assignment. Chief Smith notified Officer Merrill that he would no longer be on the K-9 unit and was removed, that same day Officer Lynch received a letter that he would also be removed from the K-9 unit because the city reserves the right to determine the amount of dogs and officers in the unit. So the fact that a grievance or citizen arbitration was that day is merely coincidental. We had one officer that was removed. We went from six dogs to five. We then sent a letter to Officer Lynch saying he also would be removed because we've determined the amount of dogs will be at five and not six or seven. So additionally officer Lynch was removed because officer Lynch does not have a dog right now. He does not have any K-9 equipment. He doesn't have a K-9 patrol squad that's set up for K-9. He does not attend K-9 training. He's never gone out on a K-9 call. And this has been over a year and a half I think a year and four months is what the union has stated. So for all practical purposes, he is not a K-9 officer right

now. And removing him really has no effect on Officer Lynch for practical purposes. So the union has, I think a narrow interpretation of what cause means under 3.5. There's a phrase in 3.5 that states examples of cause may include, but are not limited to. And then it describes performance issues. That means there's more reasons for cause other than what is described it's not limited to what is being described. And then the union continues to bring up a binding past practice. And I think there's some misinterpretation on this. What they're saying is that in 2016, the contract language for the term length of a K-9 officer was bargained. So therefore all of the current K-9 officers were grandfathered in for an indefinite term. So what I did was, I went back at the notes between our HR director and between the union for the 2016 contract. And I went back and forth between the proposals that were made for the K-9 unit officer term length. So the previous contract had a term of five years or one dog whatever's greater. The union proposed to have 10 years or the length of two dogs whichever's greater. So there was a back and forth on that. And what happened was, when that term length changed, all it did, was it changed the term length for K-9 officers going forward. It did not state anything about grandfathering in K-9 officers going forward. So what there was an issue that was it's about though. The issue was the current K-9 officers who was Lynch and Merrill would they have to take the new selection process and the new testing to be in the K-9 unit? And everyone agreed and I wasn't there at the time. They agreed they would be grandfathered into the unit. They did not say you'd would be grandfathered for as long as you would like, they said, you'd be grandfathered into the unit without having to test. So if you look at it that way, Officer Lynch could either be removed because of the previous language which is five years or one dog or it could be for 10 years and two dogs or you could look at it and say, the contract is silent to how those previous K-9 officers should be handled. So if you look at Officer Lynch's situation, he started on the K-9 unit in spring of 2010. He was removed in August of 2020. That is 10 years and he's had two dogs. So if you look at it from that perspective, if you used the current language right now, he can be removed. Now, like I said that the union is arguing that the interpretation of the contract and the past binding practice which we know is very difficult to prove is that the current Officers Lynch and Merrill have this binding practice to be on the K-9 unit as long as they want. And I think that's a misinterpretation. The grandfathering in was that they didn't have to test to be on the unit, but they still had either removal for management rights based on the term determination of the number of dogs and officers or five years and one dog or 10 years or two dogs. Any of those situations Chief Smith has the management right or the cause to remove him from the K-9 unit. So just to recap, Officer Lynch he doesn't know I have a dog. He doesn't have any K-9 equipment. He doesn't attend training. He doesn't go out any calls. So the cause for removal like detective Scanlan's saying, it's not disciplinary. Chief Smith is not disciplining him. What he's doing is he's saying that it's a management right to have five dogs, five officers that is why he's being removed. And it was coincidental that it fell on arbitration day. So the committee, the city's position is that the committee should be denying the grievance because it's a management right to determine how many people are on the unit. And then the second reason is because he's already put in 10 years, two dogs and you're able to remove him because of that.

- Okay. Does anyone on the committee have any questions for a Director Faulds? All right. I'll lead off and maybe someone else will come up with some questions.

- And Director Faulds I don't know if you can answer this or would be the Chief why one year and four months to remove Lynch from the K-9 unit? One year and four months no dog, no car, no training. Why not like the very next month?

- I'll start off and then I'll let Chief Smith add if wants to. So like I believe city and the management has the right to determine how many dogs and officers are on the unit. And if I think most Chiefs and I believe I think Chief Smith as well when he was at the committee and stated if we get another dog in a couple of months it's gonna go into Officer Lynch. And I think he meant that. I think when you have, a dog that retires, you don't necessarily just want to, you know, remove the person right away because we might get a dog donated or get some financial assistance to get another dog. So the grievance and the arbitration was pending I think we were trying to be prudent and waiting for that arbitration to occur. And then after a year and four months when there's been a no, he's been a no training, doesn't have a K-9. And we've looked at, we believe, excuse me Officer Merrill now retired and he's being removed we now went to six dogs to five. And the city of Green Bay budgets for five dogs. We went to six and seven because and Chief Smith can add to this because we had

some financial assistance to get six and seven dogs. But Chief Smith always wanted to be at five. So when officer Merrill retires and moves away from the K-9 unit, we now have five dogs. Officer Lynch has not had a dog in a year and four months. We now can set it at five dogs.

- Can I follow up on that, your question Alder Galvin?

- Sure, I have several more, but I mean, let's stay on the same.

- Just on this question. But then that also brought it to the 10 years, right? By waiting that year and four months then that also brought it to the 10 years that's mentioned in the contract. You can have two dogs, 10 years. So they would have to waited the 10 years I think to honor the contract. And that, that to me is what made sense, why it wasn't done until then maybe that didn't enter into it. But that's why I thought you waited 10 years.

- It was part of it. That was part of the conversation was it was also more than 10 years and two dogs. So we can make a decision based on that. But then we do understand the interpretation from the union. the city doesn't agree with it in the sense of they believed that Meryl and Lynch were grandfathered in as long as they wanted to. But yes, when it was in August and Officer Merrill moved on and it was past 10 years and we were down to five, we believed that that time we could remove Officer Lynch.

- Thank you.

- All right, so Director Faulds, you said you checked for notes from the negotiations for the 2016 contract that changed the tenure of the K-9 officers. And you could find nothing that referenced previous K-9 handlers being grandfathered. That's correct?

- That's correct.

- Okay, I'm going to ask detective Scanlan do you or does anyone, I don't know if you were on a bargaining back in 2016 or not. Does anyone on your organization have any memories of those discussions or negotiations?

- Yes and I would just simply say that the association completely disagrees with Director Faulds' analysis and I will cite simply 7.3.1 parens D and I hope you all get a chance to read it specifically because it is quite specific for K-9 officers appointed after July 1st, 2016 it will 10 years of the work-life of two dogs that was specific to K-9 handlers appointed after July. That is what the rule is meant to be, anyone, everyone behind the walls of 307 Salt Adams in our association including all our K-9 handlers know that the previous K-9 handlers going back to Bill Rush in the days before, those K-9 handlers stayed dogs until they chose not to be. And article 3.5 is very clear. Point five does not cite management rights. Article 3.5 is very specific to removal. Removal from a special unit or team or assignment, removal from a special unit team position or assignment shall be only, shall only be for cause. Examples of cause may include, but are not limited to poor performance, reluctance to form assigned duties, failure to successfully complete training, continued failure to be available for call in, poor documentation and the like. It does not say and management rights, this has specifically addressed anyone who's worked in our department knows that that clause historically means, if you don't do your job well, you can removed for cause. The city is just choosing to use that as a argument after the fact, and to address Joe Merrill, Joe Merrill was not removed from the K-9 unit. Joe Merrill accepted a position with the Community Policing Unit, Mr. Galvin, he accepted that position. He became a community police officer and Joel Merrill got the same letter that Matt Lynch did. And I emailed the Chief asking for clarification and the Chief said that Joe Merrill is no longer in the K-9 unit because he accepted a new position in that he was not removed.

- Okay, can you hang on one second Phil. Attorney Mather.

- Just would remind the chair that the parties will get the opportunity for a rebuttal. And if answers to questions can be limited to answering the questions, it'd be helpful.

- All right, you're correct. I'm sorry, Phil for taking you out of line like that.

- I apologize I was a little wordy.

- Well, that's more than fine. Okay I'm done. I have no more questions. Does anyone else on the committee have any questions? Alder Dorff.

- I just have kind of an odd question. What difference does it make if he stays on or not? Does it cost the city money? He doesn't have a dog, he's not going to training or is it just that if there was another dog you might not want to assign him as a handler? I'm not sure what the problem is in keeping them on the unit.

- I think the bigger picture is that the city's position is the Chief can determine the size of the K-9 unit. And if you look at article 7.3 there's nothing in there that talks about any conditions or parameters on what the size of the K-9 unit is. So if Chief Smith has determined that it's at five dogs and that's what the city budgets for this grievance, I think allows the city to continue to do that. And that's where I think it's more important than just one person and Officer Lynch.

- And then to follow up on the question that what was read from the contract, it sounded pretty, which is so clarifying for me that as of that date, those people hired forward were on for five years or 10 years. Help me understand why that doesn't apply?

- Sure, thank you for asking. So I have some notes and what I can do is you, I can always scan them. I apologize. I didn't get anything in writing to guys earlier but I can scan you the notes and the proposals that was from the GBPPA. So the first proposal from the, it might not have been the first but one of them was that this on the K-9 unit 7.31, length of assignment is too restrictive given training associated with position. Change from five years or life of one dog to the latter of 10 years or life of two dogs. Allow retesting after 10 years. Then tentative agreements between the city and the union. Newly appointed K-9 officers will have to pass a physical fitness standard, precise standard yet to be agreed upon between parties existing K-9 officers will not be subject to such standard. So what that meant was they're grandfathered into the unit. They don't have to test, they're automatically in. And then what Detective Scanlan read is about the term length. The previous term length was five years. The new one is 10 or two dogs. There's nothing that talks about the term limit for the two existing officers. They're assuming that now they can just be on there voluntarily until they want to leave. And that's not the position of the city. The position is they're grandfathered into the unit, but they'd have to be removed either as it's not defined at five years or 10 years. That's what the city's position is.

- Okay, thanks.

- Director Faulds, so if I understand correctly at one time the contract was a officer to be a K-9 handler for his entire career and then you're saying that contract was changed to being one dog or five years?

- Yes so the contract I'm looking at that was for prior to 2016, it was for five years or one dog is what the language was changed to. I don't know what it was previous to that.

- Well, I mean when I was on the department it was for life of the of the K-9 handler. I mean, like Detective Scanlan referenced Officer Rush he had, I don't know five or five, maybe six dogs over his career. So then from what you're saying then is at some point in time the contract went from that to five years, one dog and then in 2016 it was renegotiated and became 10 years or two dogs.

- That's correct. So if there's a previous contract that had K-9 unit for life, I have not looked at that. I looked at the contract previous that we have.

- All right thank you. All right, if there's no further questions, everyone will have a chance for a rebuttal and Phil, are you prepared? Do you want a few minutes?

- Yeah, a couple of things. I've never heard of a five-year rule in the contract. The association, I mean, if you'd like, I don't know, we have all contracts, I'll gladly send you one if you want to use it for deliberation. I don't know what the rules of your order are.

- Well, I'll be honest with you. I don't think it matters what the contract was before. I was just trying to get clarification.

- I'm just saying for the purpose of argument we completely disagree with the city's assessment that there was ever a five-year rule and one dog. Never heard of it, the K-9 handlers never heard of it. Those are the people that are doing the job and have a working knowledge of it. In fact, I'm clear to remiss to comment on where that even came from. I think the article I think paragraph D is pretty unequivocal. It's pretty specific. I would ask the Personnel Committee to go back and read the Chief statements. The Chief was asked specifically if I recall the quote, what if a year goes by? And the Chief said, he'd get the next dog. Those are the Chief's quotes. And I understand I have no comment, never been never been fine.. You know, I just in law enforcement, we work with a lot of lawyers and I understand a union lawyers can have a different opinion than a city lawyer. And if I hired a lawyer and Matt Lynch hired a lawyer and the Chief hired a lawyer and city hired a lawyer I think all four of us could probably come up with some sort of argument to support our facts. I think we all know that. I would like the Personnel Committee to put this to the smell test. Okay, that's what I'd like I understand you have a attorney that's going to give you the, the legal process. I'd like you to put it the smell test. All right, I'd like you to look at what the Chief testified to. I'd like you to look at the fashion of which it was done, and it stinks. He was removed for no reason, but for he was in arbitration. And if he wins he get to resume training or get the next K-9. And I think the arguments that have been made are a backwards approach to make legal argument. This is the first grievance I've ever written where the Chief did not respond in writing. This is the first grievance I've ever written to HR where HR did not respond in writing. And here we are today, neither of them denied the grievance and here we are today. So I would like the Personnel Committee to use the smell test along with the remainder of that. And we've asked that, respectfully ask that you put Officer Lynch back on the K-9 unit. Thank you.

- All right. Does anyone have any questions to Detective Scanlan's rebuttal? I would have a, I've actually got two questions, Detective Scanlan, are you aware of any of the current K-9 handlers leaving the position?

- No, I'm not. I mean, we all know the volatility of police work. One could retire tomorrow, one could door the dog tomorrow, one could be subject discipline tomorrow. to guess the future is difficult.

- Okay. All right, thank you. And Director Faulds, rebuttal.

- I guess I like to start out saying that when the letter was given to Officer Lynch the assumption was that, you know when we reached out to the union we anticipated that it would be grieved and we were going through contract negotiations and our attorney reached out to their attorney to see if they would want to include that into arbitration. So you have the same issues at the same time. It took months before detective Scanlan reached out to the Chief through step one. Again, we asked the union, if it was going to go straight to arbitration, they didn't get back to us. And then they sent it to my desk. I then asked for more time to respond and he said, let's go to step three. That's why we're here. It's not anything that smells nothing to it. Just, that is what happened. That's why there's no response in writing. So I think, what it comes down to, like we said, there's nothing in the contract that talks about when a dog is removed, how do you handle the officer? That's a decision that the Personnel Committee made two years ago. We're asking you to use the same analysis here and if someone does not have a dog and they do not have they're not able to go to training that they're not in the unit and that Chief Smith can remove them. So the removal is either the management right to determine the size of the K-9 unit or it's for a cause, because the person does not have a dog, does not have any

equipment, does not go on calls. So they're two different things. And I think when the union is focusing on cause those are two different things, you can do management rights or you could do under cause. And like I stated, I looked back at the contract I hope I didn't misinterpret it, but I saw that the paragraph stated one dog for five years. And if I misinterpreted that, I apologize. But I did look back at the previous contract that's when it stated. And then I guess I'm just wondering why do we have the language today of two dogs and 10 years if it wasn't five years at one point? And the whole point of those, the 10 years and two dogs I know there was a lot of the article that was restructured for the selection process and under merit. And I believe moving from five years or one dog to 10 years and two dogs was kind of a compromise because of the selection process that was agreed upon.

22 *Grandfathered*
- Okay, and I guess that's what I'm wondering if they were indeed grandfathered and there was a previous contract that said one year and five dogs, and I would imagine they'd be grandfathered to one year and five dogs. But if that was not part of the previous contract of the previous contract was the open-ended K-9 forever and they believe that this is where they fall under being grandfathered, I can see. So I guess we're going to need some clarification on that to see if there was a contract that stayed at one year and five years and one dog, or if there was just an open-ended K-9 for life type thing. Okay, but I thank you for your information.

- Can I just say one response to that, is that you know, the reason for the removal, like I said is to we can determine or the city can determine the size of the unit. And also it's because the individual does not does not have a dog, is not training, so that could be for cause to remove the individual. But when you look at the language, I just think it's an unreasonable interpretation to believe that they're grandfathered in indefinitely when that's nowhere in the contract and I didn't see any notes on that. I believe it was more about grandfathered into the specialty team unit without the selection process. Thank you.

- Can I make one comment just strictly timeline?

- Absolutely.

- Yeah Director Faulds cited that months went by before he heard something. August 27th was the day of the correspondence that Officer Lynch's removed from the program. August 28th same date is when we filed grievance. One day later. Our contract specifically defines timelines. We have 25 working days to file a grievance. And then every step after that is 15 working days. So the Chief has 15 days to respond, working days he did. I gave not it to Director Faulds, he has 15 working days to respond he didn't. And I think we were scheduled for personnel now in October and I guess I don't know where the months came in. You know, if you had 15 working days comes up to about 23 calendar days and we have step one and step two and step three, we're now on, when we were asked to go to personnel was in December I don't know where months came into play. There's clear timelines in our contract. The association did not violate those timelines. The city chose not to respond to it.

- Okay. All right, if there are no other questions, I'll entertain a motion.

- To go into closed session or what? Okay.

- Well, unless you want to discuss it in open session.

- I would recommend that join the closed.

- Okay, I move that we go into closed session and I will read the language unless there's is there a second?

- Yeah I seconded.

- Sorry I didn't hear it. The Committee may convene in closed session pursuant to Section 19.8518 Wisconsin Statutes for the purpose of deliberating concerning the case, which was the subject of any judicial or quasi

judicial trial, or hearing that governing body. The Committee will thereafter reconvene in open session pursuant to Section 19.852 Wisconsin Statutes to take action on items discussed in closed session, if appropriate and to consider the remainder of the agenda.

- All right. All those in favor say aye.

- [Alders] Aye.

- Aye, we are in closed session.

- Real quick, are you going to do similar to our last grievance and then just notify us? Or do you want us to wait?

- I would say Phil, I think we're going to discuss it. And then we'll render a decision and findings of facts and conclusions. I don't think I said that in the right order at the next Personnel meeting. So I would say if you folks want to call it a night, go call it a night. If we need to get ahold of you, we will. But I don't anticipate that happening.

- Well, this is Officer Lynch duty day so he's not on the road because this is his because he was present for this grievance as his rights. So I know he wants to return to work. We can sit around and wait for two hours or we can or an hour.

- I would, I think, I don't want to tie you guys up. You've got lives to lead. He wants to get back to work. You're on your own time right now as are the other officers and the supervisors. I would say you guys go home. If we need any clarification we'll have you contacted by Attorney Mather requesting the necessary information and we'll discuss that when we do our, complete our deliberations at our next meeting.

- All right. Thank you very much for your time. I appreciate it.

- All right, take care.

- [Lady] We're good?

- [Joe] We're good now even with that.

- Motion to go back into open session.

- Second.

- All those in favor?

- [Alders] Aye.

- Any opposed? Nope, we are back in open session. I'll entertain a motion.

- I'm going to make a motion to have the staff proceed as directed in closed session.

- Second.

- Okay, all those in favor, say aye.

- [Alders] Aye.

- That passes unanimously. Also both parties should be aware that we will be asking for briefs and you'll be receiving a email detailing that from Attorney Mather. All right. Onto the next item. Hang on a second my, something's not working, hang on. All right, here we go. Report of routine personal actions for regular employees. Does anyone have any question on that for staff? Okay I will.

- Move to

- Second.

- All those in favor, say aye.

- [Alders] Aye.

- All right our next meeting date will be February 9th, 2021. And I'll entertain a motion on adjournment.

- So moved.

- Second.

- All those in favor?

- [Alders] Aye.

- Enjoy.

- Goodbye everybody.

- If we don't see you before, good luck.

- Thank you.

- Good luck with the baby.

- I'm hoping you guys will see me before we got a few more weeks.

INTRADEPARTMENTAL CORRESPONDENCE

Date: August 27, 2020

To: Police Officer Matthew Lynch, Green Bay Police Department
Detective Phil Scanlan, Green Bay Professional Police Association

From: Chief of Police

SUBJECT: REMOVAL FROM K-9 PROGRAM

This correspondence is to inform you that you are being removed from our Green Bay Police Department K-9 program. The cause for removal from the K-9 cadre is that we have established the size of our K-9 unit at five K-9/handler teams. You are not currently assigned a K-9 partner and with the Department's determination regarding the size of the program, there continues to be no plans to assign you a K-9 partner.

Your deactivation and removal from the Green Bay Police K9 Unit will be effective on Friday, August 28, 2020. If the Green Bay Police Department has an opening for an additional K-9 officer position in the future you are eligible to test for the K-9 position in accordance with the K-9 team selection process.

Should you have any questions please contact me directly.


ANDREW J. SMITH
Chief of Police

INTRADEPARTMENTAL CORRESPONDENCE

Date: August 27, 2020

To: Police Officer Joe Merrill, Green Bay Police Department
Detective Phil Scanlan, Green Bay Professional Police Association

From: Chief of Police

SUBJECT: REMOVAL FROM K-9 PROGRAM

Congratulations on your new assignment to the Department's community policing unit. I'm sure you will find that to be a challenging and rewarding experience. Thank you for your decade of service with the Green Bay Police Department K-9 program.

You will be officially removed from the Green Bay Police K9 Unit on Friday August 28, 2020. As part of this process you will be required to turn your assigned K9 squad into the Department mechanics by 1530 hours on August 28, 2020. Please remove all of your personal items from the squad and turn the keys into the mechanics as the vehicle will be sent through routine cleaning and a series of maintenance procedures prior to being reassigned.

You will additionally need to return all of your narcotics training aids. Please secure these training aids in a department evidence locker and document their return and corresponding weights in a GERP case report and notify Lt. Sobieck when you have completed this task so they can be properly disposed of.

Your new assignment to the community policing unit is scheduled to officially begin Sunday, October 11, 2020. Until that time, you will remain assigned to evening shift patrol in group 3. If you have any questions regarding your move to community policing please see Lt. Mahoney or Commander Warych.

ANDREW J. SMITH
Chief of Police



*The City of Green Bay is a leader in employee health and wellness with its **Health|1265** program and a goal to engage all employees in their own health and well-being*

February 11, 2021

Personnel Committee
100 N. Jefferson Street
Green Bay, WI 54301

RE: Step 3– Grievance Response (2020-005)

Dear Personnel Committee,

The following is the City's argument on why the Committee should deny the grievance as Chief Smith did not discriminate or retaliate against Officer Lynch.

I. Whether Chief Smith's decision to remove Officer Lynch from the Canine Unit was discriminatory or retaliatory.

The City reasserts its position that rescinding Officer Lynch's removal letter resolves all of the issues in the grievance. The Union argues in the grievance "As there was no 'cause' to remove Lynch from the K-9 Unit, Lynch's removal is most reasonably considered retaliatory for having pursued his initial grievance with respect to training. That would violate Articles 2.1 and 2.4 of the labor agreement, as it would constitute discrimination against Lynch for having exercised his right to dispute the order preventing him from attending training in the first place." Since Chief Smith has rescinded the letter of removal, the Union no longer has a claim that the removal was discriminatory because Officer Lynch no longer has any damages and there is no longer any dispute which renders the claim moot. Additionally, a claim for retaliation should be filed under Wis. Stat. Sec. 111.70 which the Personnel Committee does not have jurisdiction over.

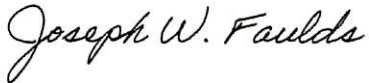
If the Personnel Committee believes this issue has not been resolved, then the City reaffirms that Chief Smith removed Officer Lynch for rational, legitimate reasons, and none were discriminatory or retaliatory. The reasons for removal were because Chief Smith believed he had cause to remove Officer Lynch. Those reasons were because Officer Lynch does not meet the qualifications or expectations of a Canine Officer as outlined in the Agreement, Officer Lynch does not meet the well-known expectations of a Canine Officer because he does not have a Canine partner, and Officer Lynch's removal coincided with the Canine Unit staffed with 5 officers and 5 dogs.

Further, Lynch's removal letter had nothing to do with Officer Lynch pursuing his Canine Training arbitration. Chief Smith has stated several times that the City only budgets for five dogs and that is

the size of the canine unit he would like to have for the department. Once Officer Joe Merrill¹ was removed and the Canine Unit was down to five dogs, Chief Smith believed this was the right time to remove Officer Lynch to coincide with the staffing level he thought was appropriate for the department and the City's budget.

Overall, Chief Smith's initial determination to remove Officer Lynch was for "cause" and not based on any discriminatory or retaliation purpose.

Respectfully submitted,



Joseph W. Faulds
Human Resources Director

¹ See Attached Removal letter to Officer Joe Merrill.

INTRADEPARTMENTAL CORRESPONDENCE

Date: August 27, 2020

To: Police Officer Joe Merrill, Green Bay Police Department
Detective Phil Scanlan, Green Bay Professional Police Association

From: Chief of Police

SUBJECT: REMOVAL FROM K-9 PROGRAM

Congratulations on your new assignment to the Department's community policing unit. I'm sure you will find that to be a challenging and rewarding experience. Thank you for your decade of service with the Green Bay Police Department K-9 program.

You will be officially removed from the Green Bay Police K9 Unit on Friday August 28, 2020. As part of this process you will be required to turn your assigned K9 squad into the Department mechanics by 1530 hours on August 28, 2020. Please remove all of your personal items from the squad and turn the keys into the mechanics as the vehicle will be sent through routine cleaning and a series of maintenance procedures prior to being reassigned.

You will additionally need to return all of your narcotics training aids. Please secure these training aids in a department evidence locker and document their return and corresponding weights in a GERP case report and notify Lt. Sobieck when you have completed this task so they can be properly disposed of.

Your new assignment to the community policing unit is scheduled to officially begin Sunday, October 11, 2020. Until that time, you will remain assigned to evening shift patrol in group 3. If you have any questions regarding your move to community policing please see Lt. Mahoney or Commander Warych.

ANDREW J. SMITH
Chief of Police

Green Bay Professional Police Association Contract Violation Information Form

Date of Occurrence: 08-28-2020	Grievance step – check one 1 ☒ 2 ☐ 3 ☐
Officer's Name/Rank: (If association as a whole write GBPPA) Officer Matt Lynch	Division/Assignment: Operations / Canine Unit
This grievance alleges a violation of article <u>7, 2 & 3</u> section <u>7.3 and 2.1, 2.2 and 3.5</u> of the labor agreement and/or department policy pertaining to: <u>See Attached</u>	

Description of Grievance – state all facts including time, place of incident, persons involved, etc.

See attached documentation

Relief Sought:

1. Reinstate Officer Matt Lynch to the Canine Unit

- 2 Cease and desist discriminating against GBPPA bargaining unit members, in this instance Officer Lynch, for exercising their rights in a grievance process.

Signature of Employee: <i>M. LYNCH (A)</i>	Signature of Association Representative: <i>P. S. O.</i>	Date Filed: 8-28-2020
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Employer Representative Response:

Employers representative signature	Title	Date Grievance received:	Date Answered
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Matter resolved: Yes ☐ No ☐ If yes, How?

09-28-2020

GBPPA Grievance 20-005

Summary:

On August 27, 2020, Chief Smith ("Chief") ordered that K-9 Officer Matt Lynch ("Lynch") be removed from the K-9 Program. The Chief ordered the removal via an "Interdepartmental Correspondence" addressed to Lynch and the GBPPA president. That correspondence cited as "cause" the fact that the Department had established the size of the K-9 Unit "...at five K-9/handler teams." The Chief noted that Lynch was not currently assigned a K-9 partner and the Department had no plans to assign him a K-9 partner due to the size of the K-9 Unit. The Chief ordered Lynch's deactivation from the unit effective Friday, August 28, 2020 and indicated that Lynch would be eligible to test for a K-9 position should one become open in the future.

Facts:

- Lynch had been a canine handler since 2009.
- Lynch's canine partner "George" was retired at the end of April 2019.
- According to the labor agreement, Lynch is grandfathered in as a canine handler and would be qualified to receive the next available canine unless removed for "cause" or if he voluntarily left the canine unit.
- In May of 2019, Lynch was told he was not allowed to attend monthly canine trainings.
- When Lynch sought clarification for not being allowed to attend training, Operation Cmdr. Warych sent Lynch an email explaining that Lynch was not being removed from his position in the K-9 unit, thus article 3.5 of the labor agreement did not apply. Cmdr. Warych reiterated to Lynch that he was still a GBPD K-9 Handler in good standing.
- GBPPA reps Scanlan and Biller spoke with K-9 Unit Lt. Jody Buth who affirmed the Chief's statement that the department was not going to replace canine George as the GBPD was going to reduce the canine unit from seven to five canines. Scanlan and Biller asserted that Lynch would be eligible for the next canine should one of the remaining five be lost or the department chose to add an additional canine. Lt. Buth told both Scanlan and Biller that the Chief would not give Lynch another canine as he was so close to retirement and it would be too much of an investment in someone that close to retirement.
- On 05-29-20 the GBPPA filed a grievance (2019-003) on behalf of Lynch not being allowed to attend canine training, which was denied by the Chief.
- On 06-10-19 the GBPPA forwarded that same grievance to Step 2, where it was denied by HR director Faulds.
- On 08-07-19 the GBPPA forwarded that same grievance to Step 3 (Personnel Committee). The matter was heard on 10-08-19, at which time members of the committee questioned GBPPA President Scanlan, Lynch and the Chief. During the hearing, the Chief testified in three significant respects: 1) Given Lynch's seniority as a K-9 handler, Lynch would be "next up" for any new canine in the event the Department chose to get another dog; 2) that Lynch would receive all the training necessary in the event another dog were to be added to the K-9 Unit, and; 3) the loss or death of a dog, coupled with a decision to not replace that dog, would not rise to the level of "cause" to remove a handler, such as Lynch, from the K-9 Unit.
- The Personnel Committee ultimately denied the grievance in regard to Lynch continuing to train with the canine unit without a canine partner.

- The GBBPA filed for arbitration. Arbitration was scheduled for 08-27-20.
- On 08-26-20, the WERC arbitration hearing for Lynch's grievance was rescheduled.
- On 08-27-20, the day Lynch's grievance had been originally scheduled to proceed to hearing, the Chief issued the aforementioned interdepartmental correspondence removing Lynch from the K-9 Unit as a result of the Department's decision to remain at 5 dogs.
- Lynch had not been disciplined or counselled, nor did he do anything (or fail to do anything) that would have created "cause" to be removed from the canine unit.

Rational:

The Chief's assertion that a change in the size of the K-9 Unit constitutes "cause for removal" violates Article 7.3.1(d) of the labor agreement, as well as the binding past practice that all K-9 handlers appointed prior to July 1, 2016 remain in the K-9 Unit until they voluntarily leave the Unit or are removed for cause. In fact, the City specifically recognized that unequivocal past practice by bargaining a change to article 7.3 and specifically creating a two dog/10 year term limit for K-9 handlers appointed after July 1, 2016.

Cause for removal from a specialty unit is defined in Article 3.5 of the labor agreement, which specifically cites examples of cause as "poor performance, reluctance to perform assigned duties, failure to successfully complete training, continued failure to be available for call-ins, poor documentation and the like." Those examples confirm that "cause" must be related to a K-9 Handler's performance. However, the Chief has not identified any performance issues with respect to Lynch.

Moreover, the "cause" cited by the Chief in removing Lynch from the K-9 Unit directly contradicts the assertions he made to the Personnel Committee in Lynch's training grievance. As there was no "cause" to remove Lynch from the K-9 Unit, Lynch's removal is most reasonably considered retaliatory for having pursued his initial grievance with respect to training. That would violate Articles 2.1 and 2.4 of the labor agreement, as it would constitute discrimination against Lynch for having exercised his right to dispute the order preventing him from attending training in the first place. Chief Smith's decision to remove Lynch from the Canine Unit because of the lack of available K-9's appears to be an attempt to side-step Lynch being provided with the next available K-9.

INTRADEPARTMENTAL CORRESPONDENCE

Date: August 27, 2020
To: Police Officer Matthew Lynch, Green Bay Police Department
Detective Phil Scanlan, Green Bay Professional Police Association
From: Chief of Police

SUBJECT: REMOVAL FROM K-9 PROGRAM

This correspondence is to inform you that you are being removed from our Green Bay Police Department K-9 program. The cause for removal from the K-9 cadre is that we have established the size of our K-9 unit at five K-9/handler teams. You are not currently assigned a K-9 partner and with the Department's determination regarding the size of the program, there continues to be no plans to assign you a K-9 partner.

Your deactivation and removal from the Green Bay Police K9 Unit will be effective on Friday, August 28, 2020. If the Green Bay Police Department has an opening for an additional K-9 officer position in the future you are eligible to test for the K-9 position in accordance with the K-9 team selection process.

Should you have any questions please contact me directly.


ANDREW J. SMITH
Chief of Police



Report to the
Personnel Committee
of the City of Green Bay

MEETING DATE

March 9, 2021

PREPARED BY

AGENDA ITEM # E.3

Consideration with possible action on grievance #2020-006 filed by the Green Bay Professional Police Association regarding SWAT team overtime compensation.

The Committee may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

1. 20-006 Grievance Step I
2. 20-006 step II
3. Findings of Fact and Conclusions of Law
4. Response to 20-006
5. Step 2 Response to 20-006- HR Director - 1-30-2021
6. Personnel Committee 3-09-2021 - City Step 3 Response

Green Bay Professional Police Association Contract Violation Information Form

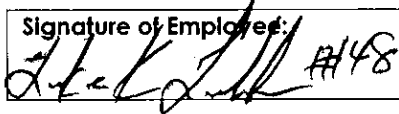
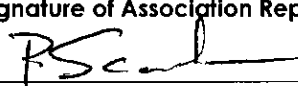
Date of Occurrence: 10-27-2020	Grievance step – check one 1 ☒ 2 ☐ 3 ☐
Officer's Name/Rank: (If association as a whole write GBPPA) Luke Lansbach/Officer et al.	Division/Assignment: Operations/ SWAT
This grievance alleges a violation of article <u>6</u> section <u>1 & 4</u> of the labor agreement and/or department policy pertaining to: <u>Overtime</u>	

Description of Grievance – state all facts including time, place of incident, persons involved, etc.

See attached documentation

Relief Sought:

Overtime payable consistent with article 6 of the labor agreement.

Signature of Employee:  #48	Signature of Association Representative: 	Date Filed: 12-01-2020
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Employer Representative Response:

Employers representative signature	Title	Date Grievance received:	Date Answered
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Matter resolved: Yes ☐ No ☐ If yes, How?

11-30-2020

GBPPA Grievance 20-006

Summary and facts:

On 10-27-2020, the GBPD SWAT team was training from 11:00am to 7:30 pm. During training at approximately 5:30pm, SWAT command chose to activate the SWAT team for a call out on Basten Street on the City's east side. Shortly thereafter, team leaders and members began preparations to serve the warrant. The SWAT team briefed and deployed. The briefing occurred around 6:50 pm. The team rallied following the briefing and departed HQ to serve the warrant at about 7:41pm.

Following the warrant, some members of the SWAT team who were training on their scheduled day off were told By Capt. Cain to put in a four-hour call-in for the SWAT call. Other members of the SWAT team training on their scheduled day off entered different times in Telestaff that varied by person. These overtime entries included overtime starting at 7:30pm, and were not in accordance with minimum call-in. In the following days, some SWAT team members had their respective times approved and then changed. Several SWAT team members were contacted by Lt. Vanegren and either told to change their overtime entry or notified that their entry had been/was being changed by either Lt. VenEgren or Lt. Gering. They were told their overtime was being entered as an extension of their workday or "hold over" OT starting after the scheduled conclusion of training (7:30pm).

SWAT team members known to be affected include, but may not be limited to, the following:

Craig Carlson – Off Day Payback 1100-1930, OT 1930-2330 (Capt Cain told him to put in for 4 hour call in, Lt. VanEgeren later emailed saying that time was wrong and it was being changed by Lt. Gering to 1930-2200)

Keith Rager – Took off using Payback time, Earned Payback 1100-1910, OT 1910-2310 (Lt. VanEgeren emailed saying it was an extension of work day, OT changed to 1930-2200 by Lt. Gering)

Tom Behn – Off Day Payback 1100-1930, OT 1930-2330 (Capt Cain told him to put in for 4 hour call in, Lt. Gering approved it, Lt. VanEgeren later emailed saying that time was wrong and it was a continuation of work day, OT 1930-2200)

Erik Obrien – Off Day Payback 1100-1910, OT 1910-2210 (Lt. VanEgeren changed times Payback 1930-2210 and OT 1930-2210)

Mike Luberd – Work Day Payback 1430-1900, OT 1900-2230 (Lt. VanEgeren called and said that he changed his time OT 1930-2230)

Jeremy Bilskey - Off Day Payback 1100-1930, OT 1930-2330 (no direction from supervisor, OT changed by Lt. Gering 1930-2200)

Rob Hock – Off Day Payback 1100-1930, OT 1930-2330 (no direction from supervisor, OT changed by Lt. Gering 1930-2200)

Jon Nejedlo – Work Day 0630-1500, Payback 1500-1930, OT 1930-2204, No direction from supervisor

Luke Lansbach – Off Day Payback 1100-1930, OT 1930-2200

Solomon Ayres – Off Day Payback 1100-1930, OT 1930-2209

Rational:

The Association is concerned about inconsistent compensation for members who are performing essentially the same duty. While member's OT might end at varying times due to obligations associated with putting away equipment etc., compensation should be consistent with regard to the overtime payable in accordance with Art. 6 of the labor agreement.

The SWAT team members identified above were training on an off-day, or on their off-time. The Association believes that payback compensation until 7:30pm is not appropriate compensation under Art. 6 of the labor agreement. Once those members ceased training and became activated they qualified for overtime under Art. 6 of the labor agreement. Additionally, for those members on their off-day or off-time, the Association argues they qualify for minimum call-in, in accordance with Article 6.4.

The City's apparent position that all members of the SWAT team should be compensated as "hold over" overtime violates the labor agreement. "Hold over" overtime is only applicable for SWAT team members who were working their scheduled on-duty hours on 10/27/2020 from 11:00am-7:30pm. Only those members would be remaining past their scheduled shift ending at 7:30pm, and therefore be properly considered as being on "hold-over" overtime.

Green Bay Professional Police Association Contract Violation Information Form

Date of Occurrence: 10-27-2020	Grievance step – check one 1 ☐ 2 ☒ 3 ☐
Officer's Name/Rank: (If association as a whole write GBPPA) Luke Lansbach/Officer et al.	Division/Assignment: Operations / SWAT

This grievance alleges a violation of article 6 section 1 & 4 of the labor agreement and/or department policy pertaining to: overtime

Description of Grievance – state all facts including time, place of incident, persons involved, etc.

See attached documentation

Relief Sought:

Overtime payable consistent with article 6 of the labor agreement.

Signature of Employee: 	Signature of Association Representative: 	Date Filed: 2021 1-6-2021 PS
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Employer Representative Response:

Employers representative signature	Title	Date Grievance received:	Date Answered

Matter resolved: Yes ☐ No ☐ If yes, How?

Findings of Fact and Conclusions of Law

This matter came before the Personnel Committee for a public hearing on November 13, 2018. The purpose of the hearing was to determine whether members of the SWAT Team are entitled to receive minimum call-in pay for executing a search warrant during scheduled SWAT training on June 18, 2018.

Findings of Fact

1. This matter was heard by the Personnel Committee at their next regularly scheduled meeting following receipt of the grievance pursuant to Article 3 of the Labor Agreement.
2. The parties were provided an opportunity to submit written documentation in support of their positions, which documents were admitted into the record and considered by the Personnel Committee in making their determinations.
3. Neither party requested a fact-finding hearing and the Personnel Committee determined that a hearing was not required in this matter.
4. The documentation demonstrates that:
 - a. On June 18, 2018, members of the SWAT Team were attending regularly scheduled SWAT Team training from 2:45pm – 7:00pm.
 - b. During this training, members of the SWAT Team were directed to execute a search warrant.
 - c. At 5:30pm, the SWAT Team was deployed.
 - d. By 7:00pm, the SWAT Team had returned to the police department and was changed out of their gear.
 - e. Seven officers were compensated at their regular rate of pay because they already had the maximum 100 hours accumulated in their payback time bank. One officer received time and one half pay because he had over 171 hours in the FLSA period and accumulated the maximum 100 hours in his payback time bank. Six officers had time added to their payback time bank. Officers who were attending SWAT training during their regular duty time only received their regular pay for the training and deployment.
5. Section 6.4 of the Agreement Between the City of Green Bay and the Green Bay Professional Police Association (Bargaining Unit) provides that:

MINIMUM CALL-IN TIME. Employees shall be compensated for a minimum of 3-hours for any call-in time worked on a scheduled work day, a day on which an officer works a full 8½-hour work day pursuant to posted shift overtime, or for a

City of Green Bay
Personnel Committee
SWAT Team Minimum Call-In Time Grievance

call-in while an officer is attending either a voluntary school or in-service training (an officer receiving call-in pay on a day attending school shall still be entitled to compensatory time as if no call-in occurred if the officer successfully completes the school in question, and if the school is not successfully completed, shall receive compensatory time for those hours in attendance). The department may engage police officers in police business on site during in-service training without paying call-in, provided such shall not jeopardize the officer receiving full credit for the class interrupted. Employees shall be compensated for a minimum of 6-hours for any call-in time on a day off or scheduled vacation. This call-in time shall be compensated at the base rate of pay.

Conclusions of Law

1. This grievance is properly before the Personnel Committee pursuant to Article 3 of the Labor Agreement.
2. A hearing on this matter was timely conducted in accordance with Article 3 of the Labor Agreement.
3. Section 6.4 of the Agreement Between the City of Green Bay and the Green Bay Professional Police Association (Bargaining Unit) does not apply to SWAT Team training.
4. The SWAT Team is not entitled to minimum call-in time for executing a search warrant during scheduled SWAT training on June 18, 2018, pursuant to Section 6.4 of the Agreement Between the City of Green Bay and the Green Bay Professional Police Association (Bargaining Unit).

Approved by the Personnel Committee, November 27, 2018.

William F. Halpin
Chair, Personnel Committee

11/27/18
/Date

Attest:

Gris A. Teske
Clerk

INTRADEPARTMENTAL CORRESPONDENCE

Date: December 17, 2020

To: Police Officer Luke Lansbach, Green Bay Police Department
Detective Phil Scanlan, Green Bay Professional Police Association

From: Chief of Police

SUBJECT: RESPONSE TO GRIEVANCE NO. 2020-006

I received Green Bay Professional Police Association Contract Violation Form, alleging a contract violation which is alleged to have occurred on October 27, 2020. Please see below for my grievance response.

TIMELINESS

This grievance is determined to be within time limits.

GRIEVANCE

On October 27th, 2020, the Green Bay Police Department SWAT team was attending their scheduled training day. At approximately 1730 hours, SWAT Officers in Charge (OICs) received a search warrant service request which they agreed to serve. The team was briefed prior to 1900 hours, served the warrant and concluded the warrant service around 2200 hours. Team members entered their times in Telestaff, some being told later by SWAT OICs that their entered times were to be adjusted in accordance to contract language. The grievants believe that payback compensation until 1930 hours is not appropriate. They also believe that employees on their off-day should be paid for a call-in, although they were already at work.

FINDINGS

The grievance is denied.

RATIONALE

The grievance is denied on the following basis: October 27, 2020 was a scheduled training day for the SWAT team. The search warrant request was made during their 1100-1930 training period. The warrant service began prior to the end of training and concluded 2.5 hours after the scheduled conclusion. Based upon prior grievances relating to the 6.4 contract language, the City of Green Bay does not compensate officers for call-ins when they are on duty and already being compensated. The hours beyond the 8.5 hours of training were appropriately recorded and compensated.

Should you have any questions please contact me directly.


ANDREW J. SMITH
Chief of Police



*The City of Green Bay is a leader in employee health and wellness with its **Health | 1265** program and a goal to engage all employees in their own health and well-being*

January 30, 2021

Officer Luke Lansbach
Green Bay Police Department
307 S. Adams Street
Green Bay, WI 54301

Sent via email: luke.lansbach@greenbaywi.gov

RE: Step 2 – Grievance Response to overtime pay consistent with Article 6 - 20-006

Dear Officer Lansbach,

The following is my review of the grievance regarding the compensation consistent with contract language 6.4 – Minimum Call-In Time.

- The language of 6.4 of the current bargaining agreement states as follows:

6.4 MINIMUM CALL-IN TIME. Employees shall be compensated for a minimum of 3-hours for any call-in time worked on a scheduled work day, a day on which an officer works a full 8½-hour work day pursuant to posted shift overtime, or for a call-in while an officer is attending either a voluntary school or in-service training (an officer receiving call-in pay on a day attending school shall still be entitled to compensatory time as if no call-in occurred if the officer successfully completes the school in question, and if the school is not successfully completed, shall receive compensatory time for those hours in attendance). The department may engage police officers in police business on site during in-service training without paying call-in, provided such shall not jeopardize the officer receiving full credit for the class interrupted. Employees shall be compensated for a minimum of 6-hours for any call-in time on a day off or scheduled vacation. This call-in time shall be compensated at the base rate of pay.

- On October 27, 2020, Officer Lansbach and several other officers mentioned in the grievance attended SWAT team training on their day off.
- At approximately 5:30pm the SWAT Command chose to activate the SWAT Team for a call out.
- Around 6:50pm the SWAT team briefed and around 7:41pm departed to serve the

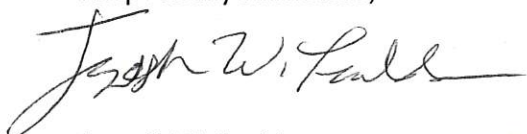
warrant.

- The SWAT Team members finished serving the warrant and were done with the training at various times between 10:00pm-10:30pm and two members at 11:30pm.
- The grievants received OT pay for the call-out for various times between 7:30pm through 10:00pm, 10:30pm, and 11:30pm.
- The grievance requests that the grievants who were training on an off day or off-duty be given a minimum call-in pay of 6 hours as outlined in Article 6.4.

After reviewing the grievance, the grievance is denied for the following reasons. First, 6.4 of the contract language for minimum call-in time is meant for officers who are not on-duty and are called in for duty. Since the grievants were attending SWAT Team training they did not need to be called-in to serve the warrant and is not afforded the minimum call-in time. Although there are exceptions where call-in time applies when an officer is in attendance for school or in-service training, those exceptions do not apply to SWAT Team training or to leave SWAT Team training to serve a warrant.

Second, the Personnel Committee reviewed this matter before with the SWAT Team. The Union grieved the matter requesting that members of the SWAT Team who were training on their off day, but stopped the training for a SWAT Team assignment, should be compensated in accordance with 6.4 of the Contract. The Personnel Committee denied that grievance (see attached). Since these situations are similar—I find no reason to deviate from the Personnel Committee's ruling and, therefore, Officer Lansbach's and the other grievants' request for call-in pay for leaving SWAT Team Training to attend a SWAT Team assignment is denied.

Respectfully submitted,



Joseph W. Faulds
Human Resources Director

Cc: Police Chief Andrew Smith (via email only)
Attorney Jon Cermele (via email only)
GBPPA Representative Phil Scanlan (via email only)



*The City of Green Bay is a leader in employee health and wellness with its **Health | 1265** program and a goal to engage all employees in their own health and well-being*

March 4, 2021

Personnel Committee
100 N. Jefferson Street
Green Bay, WI 54301

RE: Step 3 – Grievance Response to overtime pay consistent with Article 6 - 20-006

Dear Personnel Committee,

This correspondence is in response to the Step 3 Grievance (20-006) submitted by the Green Bay Professional Police Association (GBPPA). In addition, please see the enclosed documents for the Personnel Committee's consideration:

1. Chief Andrew Smith Step 1 Response
2. Human Resources Director Joe Faulds Step 2 Response
3. Personnel Committee Findings of Fact and Conclusions of Law – 11/27/2018

The City requests that the Personnel Committee deny the Association's grievance requesting that the members of the SWAT team be entitled to six hours of call-in pay when they are asked to leave SWAT Team training to serve a warrant.

The language of 6.4 of the current bargaining agreement states as follows:

6.4 MINIMUM CALL-IN TIME. Employees shall be compensated for a minimum of 3-hours for any call-in time worked on a scheduled work day, a day on which an officer works a full 8½-hour work day pursuant to posted shift overtime, or for a call-in while an officer is attending either a voluntary school or in-service training (an officer receiving call-in pay on a day attending school shall still be entitled to compensatory time as if no call-in occurred if the officer successfully completes the school in question, and if the school is not successfully completed, shall receive compensatory time for those hours in attendance). The department may engage police officers in police business on site during in-service training without paying call-in, provided such shall not jeopardize the officer receiving full credit for the class interrupted. Employees shall be compensated for a minimum of 6-hours for any call-in time on a day off or scheduled vacation. This call-in time shall be compensated at the base rate of pay.

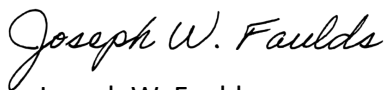
The material facts of the grievance:

- On October 27, 2020, Officer Lansbach and several other officers mentioned in the grievance attended SWAT team training on their day off.
- At approximately 5:30pm the SWAT Command chose to activate the SWAT Team for a call out.
- Around 6:50pm the SWAT team briefed and around 7:41pm departed to serve the warrant.
- The SWAT Team members finished serving the warrant and were done with the training at various times between 10:00pm-10:30pm and two members at 11:30pm.
- The grievants received OT pay for the call-out for various times between 7:30pm through 10:00pm, 10:30pm, and 11:30pm.
- The grievance requests that the grievants who were training on an off day or off-duty be given a minimum call-in pay of 6 hours as outlined in Article 6.4.

The grievance should be denied for the following reasons. First, 6.4 of the contract language for minimum call-in time is meant for officers who are not on-duty and are called in for duty. Since the grievants were attending SWAT Team training they did not need to be called-in to serve the warrant and is not afforded the minimum call-in time. Although there are exceptions where call-in time applies when an officer is in attendance for school or in-service training, those exceptions do not apply to SWAT Team training or to leave SWAT Team training to serve a warrant.

Second, the Personnel Committee reviewed and denied this same issue with the SWAT Team in 2018. The Union grieved the matter requesting that members of the SWAT Team who were training on their off day, but stopped the training for a SWAT Team assignment should be compensated in accordance with 6.4 of the Contract. Since the GBPPA is grieving the same issue, the Personnel Committee should not deviate from its prior ruling and, therefore, should deny the request for call-in pay for leaving SWAT Team Training to attend a SWAT Team assignment.

Respectfully submitted,



Joseph W. Faulds
Human Resources Director

Cc: Police Chief Andrew Smith (via email only)
Attorney Jon Cermele (via email only)
GBPPA Representative Phil Scanlan (via email only)

INTRADEPARTMENTAL CORRESPONDENCE

Date: December 17, 2020

To: Police Officer Luke Lansbach, Green Bay Police Department
Detective Phil Scanlan, Green Bay Professional Police Association

From: Chief of Police

SUBJECT: RESPONSE TO GRIEVANCE NO. 2020-006

I received Green Bay Professional Police Association Contract Violation Form, alleging a contract violation which is alleged to have occurred on October 27, 2020. Please see below for my grievance response.

TIMELINESS

This grievance is determined to be within time limits.

GRIEVANCE

On October 27th, 2020, the Green Bay Police Department SWAT team was attending their scheduled training day. At approximately 1730 hours, SWAT Officers in Charge (OICs) received a search warrant service request which they agreed to serve. The team was briefed prior to 1900 hours, served the warrant and concluded the warrant service around 2200 hours. Team members entered their times in Telestaff, some being told later by SWAT OICs that their entered times were to be adjusted in accordance to contract language. The grievants believe that payback compensation until 1930 hours is not appropriate. They also believe that employees on their off-day should be paid for a call-in, although they were already at work.

FINDINGS

The grievance is denied.

RATIONALE

The grievance is denied on the following basis: October 27, 2020 was a scheduled training day for the SWAT team. The search warrant request was made during their 1100-1930 training period. The warrant service began prior to the end of training and concluded 2.5 hours after the scheduled conclusion. Based upon prior grievances relating to the 6.4 contract language, the City of Green Bay does not compensate officers for call-ins when they are on duty and already being compensated. The hours beyond the 8.5 hours of training were appropriately recorded and compensated.

Should you have any questions please contact me directly.


ANDREW J. SMITH
Chief of Police



*The City of Green Bay is a leader in employee health and wellness with its **Health | 1265** program and a goal to engage all employees in their own health and well-being*

January 30, 2021

Officer Luke Lansbach
Green Bay Police Department
307 S. Adams Street
Green Bay, WI 54301

Sent via email: luke.lansbach@greenbaywi.gov

RE: Step 2 – Grievance Response to overtime pay consistent with Article 6 - 20-006

Dear Officer Lansbach,

The following is my review of the grievance regarding the compensation consistent with contract language 6.4 – Minimum Call-In Time.

- The language of 6.4 of the current bargaining agreement states as follows:

6.4 MINIMUM CALL-IN TIME. Employees shall be compensated for a minimum of 3-hours for any call-in time worked on a scheduled work day, a day on which an officer works a full 8½-hour work day pursuant to posted shift overtime, or for a call-in while an officer is attending either a voluntary school or in-service training (an officer receiving call-in pay on a day attending school shall still be entitled to compensatory time as if no call-in occurred if the officer successfully completes the school in question, and if the school is not successfully completed, shall receive compensatory time for those hours in attendance). The department may engage police officers in police business on site during in-service training without paying call-in, provided such shall not jeopardize the officer receiving full credit for the class interrupted. Employees shall be compensated for a minimum of 6-hours for any call-in time on a day off or scheduled vacation. This call-in time shall be compensated at the base rate of pay.

- On October 27, 2020, Officer Lansbach and several other officers mentioned in the grievance attended SWAT team training on their day off.
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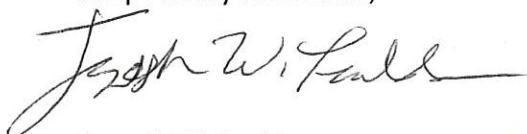
warrant.

- The SWAT Team members finished serving the warrant and were done with the training at various times between 10:00pm-10:30pm and two members at 11:30pm.
- The grievants received OT pay for the call-out for various times between 7:30pm through 10:00pm, 10:30pm, and 11:30pm.
- The grievance requests that the grievants who were training on an off day or off-duty be given a minimum call-in pay of 6 hours as outlined in Article 6.4.

After reviewing the grievance, the grievance is denied for the following reasons. First, 6.4 of the contract language for minimum call-in time is meant for officers who are not on-duty and are called in for duty. Since the grievants were attending SWAT Team training they did not need to be called-in to serve the warrant and is not afforded the minimum call-in time. Although there are exceptions where call-in time applies when an officer is in attendance for school or in-service training, those exceptions do not apply to SWAT Team training or to leave SWAT Team training to serve a warrant.

Second, the Personnel Committee reviewed this matter before with the SWAT Team. The Union grieved the matter requesting that members of the SWAT Team who were training on their off day, but stopped the training for a SWAT Team assignment, should be compensated in accordance with 6.4 of the Contract. The Personnel Committee denied that grievance (see attached). Since these situations are similar—I find no reason to deviate from the Personnel Committee's ruling and, therefore, Officer Lansbach's and the other grievants' request for call-in pay for leaving SWAT Team Training to attend a SWAT Team assignment is denied.

Respectfully submitted,



Joseph W. Faulds
Human Resources Director

Cc: Police Chief Andrew Smith (via email only)
Attorney Jon Cermele (via email only)
GBPPA Representative Phil Scanlan (via email only)

Findings of Fact and Conclusions of Law

This matter came before the Personnel Committee for a public hearing on November 13, 2018. The purpose of the hearing was to determine whether members of the SWAT Team are entitled to receive minimum call-in pay for executing a search warrant during scheduled SWAT training on June 18, 2018.

Findings of Fact

1. This matter was heard by the Personnel Committee at their next regularly scheduled meeting following receipt of the grievance pursuant to Article 3 of the Labor Agreement.
2. The parties were provided an opportunity to submit written documentation in support of their positions, which documents were admitted into the record and considered by the Personnel Committee in making their determinations.
3. Neither party requested a fact-finding hearing and the Personnel Committee determined that a hearing was not required in this matter.
4. The documentation demonstrates that:
 - a. On June 18, 2018, members of the SWAT Team were attending regularly scheduled SWAT Team training from 2:45pm – 7:00pm.
 - b. During this training, members of the SWAT Team were directed to execute a search warrant.
 - c. At 5:30pm, the SWAT Team was deployed.
 - d. By 7:00pm, the SWAT Team had returned to the police department and was changed out of their gear.
 - e. Seven officers were compensated at their regular rate of pay because they already had the maximum 100 hours accumulated in their payback time bank. One officer received time and one half pay because he had over 171 hours in the FLSA period and accumulated the maximum 100 hours in his payback time bank. Six officers had time added to their payback time bank. Officers who were attending SWAT training during their regular duty time only received their regular pay for the training and deployment.
5. Section 6.4 of the Agreement Between the City of Green Bay and the Green Bay Professional Police Association (Bargaining Unit) provides that:

MINIMUM CALL-IN TIME. Employees shall be compensated for a minimum of 3-hours for any call-in time worked on a scheduled work day, a day on which an officer works a full 8½-hour work day pursuant to posted shift overtime, or for a

City of Green Bay
Personnel Committee
SWAT Team Minimum Call-In Time Grievance

call-in while an officer is attending either a voluntary school or in-service training (an officer receiving call-in pay on a day attending school shall still be entitled to compensatory time as if no call-in occurred if the officer successfully completes the school in question, and if the school is not successfully completed, shall receive compensatory time for those hours in attendance). The department may engage police officers in police business on site during in-service training without paying call-in, provided such shall not jeopardize the officer receiving full credit for the class interrupted. Employees shall be compensated for a minimum of 6-hours for any call-in time on a day off or scheduled vacation. This call-in time shall be compensated at the base rate of pay.

Conclusions of Law

1. This grievance is properly before the Personnel Committee pursuant to Article 3 of the Labor Agreement.
2. A hearing on this matter was timely conducted in accordance with Article 3 of the Labor Agreement.
3. Section 6.4 of the Agreement Between the City of Green Bay and the Green Bay Professional Police Association (Bargaining Unit) does not apply to SWAT Team training.
4. The SWAT Team is not entitled to minimum call-in time for executing a search warrant during scheduled SWAT training on June 18, 2018, pursuant to Section 6.4 of the Agreement Between the City of Green Bay and the Green Bay Professional Police Association (Bargaining Unit).

Approved by the Personnel Committee, November 27, 2018.

William F. Halpin
Chair, Personnel Committee

11/27/18
/Date

Attest:

Gris A. Teske
Clerk

**REPORT OF ROUTINE PERSONNEL ACTIONS
FOR REGULAR EMPLOYEES
March 9, 2020**

<u>Position</u>	<u>Department/Division</u>	<u>Name</u>	<u>Date</u>
<u>Transfer</u>			
Laborer - Street	DPW	Padraig Fahey	2/22/2021
Truck Driver - Street			
<u>Promotion</u>			
Park Maintenance Foreperson	PRF	Adam Brezinski	2/18/2021
Park Supervisor			
<u>Grade/Step Change</u>			
Assistant Development Director	Community & Economic Development	Cheryl Renier-Wigg	12/23/2020
Appraiser II	Admin Services	Kristi Norton	2/19/2021
Truck Driver - Street	Public Works	Todd DeGrave	2/24/2021
Parking Enforcement Officer	Public Works	Gaylord Katzbahn	3/23/2021
Civil Engineer I	Public Works	Jeffrey Bodoh	2/20/2021
Truck Driver - Sanitation	Public Works	Josh Sonesen	3/23/2021
Laborer - Sanitation	Public Works	Nick Dorsey	3/5/2021
Laborer - Sanitation	Public Works	John Krumrey	2/26/2021
<u>End of Employment</u>			
Patrol Officer	Police	Cameron Boersma	2/25/2021
Specialist II	Police	Andrew Weiss	2/27/2021