

Rutland City Police Commission
January 11, 2021

Present: Chairman Sean Sargeant, Commissioners Luther Brown, Tom Calcagni, Tony Romeo and Jeannette Langston.

Also attending: Chief Kilcullen, Commanders David LaChance and Greg Sheldon, Sgt. Jon Dickerson, Aldermen Ryan and Etori, Crime Analyst Nathan Thibodeau and Matthew Prouty.

Call to order by Chairman Sargeant at 6 pm.

Approval of Minutes

Commissioner Calcagni moved to approve the minutes of December 14, 2020. Commissioner Romeo seconded. Motion passed 5-0.

Public Comment

Chairman Sargeant said Matthew Prouty requested the opportunity to address the Commission tonight. Prouty said he is in total agreement that the City of Rutland has a right to restrict political activity of its employees especially in an official capacity. He publically thanked Alderman Mattis for the invitation to the Charter & Ordinance meeting which he did not attend. Prouty said that when he phoned Chairman Sargeant for an opinion about his violation of the City Charter and Chairman Sargeant said he does not have the luxury of an opinion as Chairman of the Police Commission. Prouty continued that he was then surprised to read in the Rutland Herald that the Charter & Ordinance Committee of the Board of Aldermen chose to keep the language after receiving testimony from Commission Sargeant. Although Prouty will not be bound by this charter language as he is leaving soon, he wanted to express to the Commission that in his opinion the court's ruling matters. The court ruling states that as written the language is unconstitutional. The City is bound by this ruling regardless of whether or not the voters accept new language. Prouty provided examples to show that at some level the first amendment protection that has been denied to our staff and he does not believe there has been any opportunity to hear from staff other than the invite to Prouty from Alderman Mattis. He understands that it is a complex issue but police officers are expected to adhere to the rulings of the court as business is conducted and the City leadership should do the same. Prouty hopes that with guidance from the City Attorney, input from the community and staff, we can come up with an ordinance that addresses the needs of the City for protection and does not have police officer's in their official capacity endorsing candidates but we also protect the first amendment freedom that our staff is entitled to and the ordinance passes constitutional muster. He

welcomed any conversation with the Commission and hoped he did not come off as confrontational.

Chairman Sargeant said he appreciated Prouty coming to the Commission with his opinion. He has provided to both Prouty and Chief Kilcullen a copy of his comments made at the 12/7/2020 meeting of the BOA's Charter & Ordinance Committee meeting and these will be placed on record with these official minutes. He added that he does not have the luxury to interpret the Charter and ordinances the way he sees fit and can only go by the letter of the Charter and ordinances and commits to doing that. Chairman Sargeant said the Chair of the Charter and Ordinance Committee did not close the issue so if Prouty feels strongly enough that the issue needs to be re-opened, he should convince Alderman Mattis to hold another meeting and take additional testimony.

Alderman Etori said he appreciated Prouty's comments and said the ordinance is still in committee. Atty. Bloomer also has interest in reopening the issue. There is a gray line and a good conversation needs to be had fellow officers and figure out where is the right line. It's important that officers to not feel pressured to do something or someone else feels pressured in their presence. Alderman Etori agrees that there should be continued conversation.

Commissioner Langston also thanked Prouty for the open communication and mutual respect briefing on this potentially difficult issue. She thinks this needs to be resolved with a clear solution.

Commissioner Romeo said he reached out to Prouty and agreed that Atty. Bloomer needs to prepare a ruling on the subject. The Commission has no authority over the fire department but as a ward clerk several years ago there was an issue with members of the fire department at a polling location with signs and campaigning for someone running for office. As ward clerk he was told this was in violation of the City ordinance and they were asked to leave with no issue. There was no argument. Bottom line the City Attorney needs to come out and say this legal opinion makes the ordinance null and void, then as a Commission we can tweak a policy to make sure everyone is satisfied, no constitutional rights are violated and the City is protected.

Chairman Sargeant asked Commissioner Langston for an overview of the Holiday Light Contest. Commissioner Langston said the contest was ran out of her new Social Tinkering website created to facilitate human connections and grow happiness especially in this time of COVID-19 and the isolation it created. There were 30 total contestants after a slow start to sign up. Partners donated prizes and 149 people voted. The contest increased the number of Facebook followers by 700 and several community

members shared stories of how grateful they were for this event and connection to community. She joined forces with the Help Light Up Rutland group headed by Nancy Greenwood and the Fire Department to do a holiday lights tour through the City. The tour took 2 hours with 70 participants signing up. A member of the fire department dressed up as Santa and they decorated the firetruck. Commissioner Langston said it was touching to see the neighbors come out as a reminder that we are not alone during this difficult time. Chairman Sargeant thanked her for putting the event together and he was sure it was a great success.

Commanders' Report

Sgt. Dickerson spoke on behalf of Commander Prouty. Wrapped up an interesting year and discussed re-engaging the program with Greg Dwyer at DOC to keep tabs and perform check-ins with people on supervision through the DOC with the COVID protocols. The Community Policing Subcommittee will meet in January. The Implicit Bias Training dates have been issued and when the link is available it will be sent out to the Commission and subcommittee. There has been discussion including Nate about tips, which hasn't been used due to security issues. Now tips will go to Nate and the information will be disseminated and then send it out to the Supervisors and the Chief to address with their individual shifts. We are also working on a cheat sheet like the website My Reports.com where citizens can go a website and view where they live to see what kind of activity goes on there. Officer Blongy is retiring at the end of month. Most of the subcommittees, other than Community Policing, are still on hold due to COVID. Sgt. Dickerson said he is a part of the Rutland County Treatment Court Program and is considering becoming active on the Federal level as well. Chairman Sargeant said Christopher Louras has been appointed by the Governor to the Criminal Justice Council. Louras asked what the Commission wanted out of that council. Chairman Sargeant asked for the scope and purview of the reformulated council. Louras will provide a document as to what they are tasked with at a State level and Chairman Sargeant will distribute that to the Commission. Chairman Sargeant added that he sits in on the State Police Fair & Impartial Policing Committee and the next meeting will be January 26 and he will provide a link to the meeting to any Commissioner interested in the meeting.

Commander LaChance said there are 5-7 candidates planning to take the entrance exam on January 26, 2 of which are in background now. Assessment center testing will follow for those who pass. Emilio Rosario is back in records so that is fully staffed. Commander LaChance said they have been busy catching up on mandated trainings at the end of the year and people are being scheduled for vaccines. A committee is being created to work on the remaining policies.

Commander Sheldon said they are polling patrols to see who wants the vaccine and who doesn't. Street crimes has been temporarily reassigned to patrol in a support function to help with a manning issues. Jason Williams, Acting Sgt. on night shift has stepped up with new recruiting ideas and the economy recruiting message has been updated. Assistance has been given to Sam Delpha with recruitment and the application process to help attract more people. Commissioner Langston asked when officers will be getting their vaccines. Chief Kilcullen said six days ago an email was received saying the State had reverted back to the CDC guidelines and law enforcement would be getting vaccines following 1A as first responders for caring, transporting or access to sick or injured individuals now qualify. A roster was being compiled of all sworn personnel and qualifying employees and vaccinations started Friday. Chairman Sargeant asked who pays for the vaccine and co-pays. Chief Kilcullen said he believed insurance is billed with no out-of-pocket expense for the individual.

Mapping Update

Nate Thibodeau presented the 2020 crime statistics. The nature calls are dispatch related and the total calls received were 10,872 but the observed codes, which are what the police see when they investigate, ended up being 11,286. This year 1,306 directed patrols with repeat locations making up 8.5% of directed patrols. Commander Sheldon explained the difference between the nature calls and observed codes. Nate continued with the Part 1 Index Crimes which include violent crimes of homicide, aggravated assault, sexual assault and robbery and property crimes of larceny, motor vehicle theft and arson. In 2020 there was 1 homicide, aggravated assault is down 32%, rape is down 70% and robbery increased by 1. The property crimes are down across the board. Burglary is down by 38%, larceny is down from 347 to 285, motor vehicle theft is down from 22 to 16 and arson is down from 7 to 5. Nate continued with the larceny breakdown saying motor vehicle increased, stolen bicycles down and "all other" is down. The top calls of service, which is what the dispatcher is hearing, went from 1695 to 1001 down 40%. Other than family fights, citizen disputes, littering and 911 hang-up calls, all calls were down. The increase in these type calls may be due to COVID-19 protocols. The police observed codes, which is what the officers' see, went down from 1619 to 1306. Nate continued with the overdoses for 2020 which were up 55% and littering, which is attributed to needle pick up, went from 87 to 101. Chief Kilcullen added that of the total overdoses, not all were fatal. Nate said there were 7 fatal overdoses. Chief Kilcullen added that Sgt. Dickinson heads up the OD Response Team with some Vision partners to make contact in any non-fatal OD cases and works with Turning Point to reach out to individuals and their families. Chairman Sargeant asked about the decrease in the repeat call volume. Nate responded that it is because he does not count the DDACTS, Data Driven Approaches to Crime and Traffic Safety, with the repeat locations as in previous years.

Chief Kilcullen added that Nate will be participating in some DDACTS training tomorrow to update our analytical products currently being used. Commissioner Langston asked what drug is the causing overdoses. Chief Kilcullen said it depends on what the composition of drugs is coming into the area. Commissioner Langston also asked what groups can do to help. Chief Kilcullen said the OD Response Team helps on the non-fatals to prevent those from becoming fatal overdoses. Commander Prouty and Sgt. Whitehead and someone from Rutland Mental Health attended a conference in Boston on the Police Assisted Addiction Recovery Initiative that created the OD Response Team. Commissioner Brown asked about the decrease in shoplifting given the job losses. Chief Kilcullen said the shoplifting numbers are really a function of staffing at the stores and to some extent for a period of time there were fewer opportunities as some stores were not open and even Wal-Mart had only essential goods available for purchase. He added a lot of shoplifting isn't stealing food. Chairman Sargeant asked if the decrease in Part 1 Crimes was in line with national trends. Chief Kilcullen said he believes those crimes are down nationally. Commissioner Langston asked if the decrease in rape crimes correlated to rise in 911 hang-ups. Chief Kilcullen said it is difficult to tell why the 911 hang-ups are higher.

Budget Report

Chief Kilcullen reported that as of the first half of FY21 expenses are at 45% of the budget and 50% for the year.

Chief's Report

Chief Kilcullen said the BIAS Training is set for February 2 from 2:30 to 4:30 pm. There will be 3 sessions Police Commission, Project Vision and the Community Policing Subcommittee, Police Officers and Detectives, Corporals, Sergeants, Commanders and Chief. Once the format is figured out either the Chief or Nikki Fuller will send out the information. The City recently developed a COVID Leave Policy and it was distributed last week. The City's Safety Team will be going through the policy this week in person to answer any questions. Chief Kilcullen added that after the events in Washington last week the Vermont Chiefs' Association and the Vermont Police Association put out a message and it was shared with the Community Policing Subcommittee last Friday. Chief Kilcullen read the message aloud:

"The Vermont Chiefs' of Police Association condemns the violence that unfolded yesterday in Washington DC. This incident further demonstrates the dangers of extreme ideology. Over the last eight months, we as Americans have seen a divide in our country caused by extremists from the far left and the far right and as Vermont law enforcement officers we do not condone those actions regardless of who the participants are. As professional law enforcement officers we are committed to the principals of President Obama's 21st Century Policing Modal, we strive for a common ground for all that respects everyone as an individual and is supportive of one

another. We honor the brave law enforcement personnel who stood their ground during the insurrection and reaffirm the commitment of VT Law Enforcement to uphold the rule of law and protect the citizens of the state.”

Outside Employment Requests

Chairman Sargeant suggested taking up all the requests in bulk and approve at the end as a single vote. Commissioner Calcagni suggested if any requests are questionable to pull them out of the bulk for a separate vote.

Tim Cornell, repeat request, continue as volunteer with Pittsford Fire Department, hours vary,

Tim Cornell, craftsman custom woodworking, 10-12 hours weekly,

Mike Delehanty, repeat request, continue with VT Task Force Urban Search & Rescue, 1 training per month,

Mike Delehanty, repeat request, self-employed lawn care, 5-10 hours weekly,

Emily Leinoff, repeat request, part-time dispatcher for Town of Hartford,

Keith Lorman, repeat request, plow driveways, 5-10 hours weekly, weather dependent,

Nora Moore, repeat request, selling skin care products, 6-8 hours weekly,

Eric Morgano, landscaping and plowing, 8-10 hours weekly, and

Charles Whitehead, partners with Eric Morgano, landscaping and plowing, 8-10 hours weekly.

Chief Kilcullen did not feel that any of these requests would adversely affect our operation.

Commissioner Romeo moved to authorize the Chairman to sign the Requests for Outside Employment as presented by Chief Kilcullen. Commissioner Calcagni seconded. Motion passed 5-0.

Executive Session

Chairman Sargeant said there is no executive session scheduled for this meeting. An executive session will be scheduled for the February meeting.

Adjournment

Commissioner Romeo moved to adjourn. Commissioner Calcagni seconded. Motion passed 5-0.

Meeting called to a close at 7:05 pm.

Submitted by: Barbara Spaulding

Att: Letter from Matthew Prouty dated 1/8/2021
Summary of testimony by Chairman Sargeant dated 12/17/2020

cc: Chief Brian Kilcullen
Mayor David Allaire
Police Commission
City Clerk Henry Heck
Board of Aldermen
Union President Elias Anderson

City Charter

Kilcullen, Brian <Brian.Kilcullen@vermont.gov>

Fri 1/8/2021 12:13 PM

To: Zambon, Mary-Kaye <Mary-Kaye.Zambon@vermont.gov>

Mary-Kaye,

Could you please include this as part of the packet that goes to the Police Commissioners for Monday's meeting?. Commander Prouty has expressed interest (as Citizen Prouty) in addressing the Commission on Monday during the public comment portion of the meeting.

Commissioners,

In response to the Rutland City Police Commission weighing in on the unconstitutional city ordinance this month, I would like to address the commission at the January meeting. My understanding is that the unconstitutional language will stand because of the convincing argument provided by this commission. The city is bound by a ruling, made by a federal court justice, which resulted in a judgement against the city. To purposely keep the language would put the city at continued legal risk.

The city has made one failed attempt at dealing with the already determined unconstitutional language in the ordinance. My hope was that an actual discussion with the officers who are affected would have occurred prior to a public position being presented by the commission. I completely agree with and understand the need for an ordinance. I also feel that police officers and fire fighters should have similar or the same 1st Amendment protections as other public employees.

If I have completely mischaracterized what took place at the Charter and Ordinance meeting please correct me. My response is being driven by my reading of the Rutland Herald article from December 23rd.

I was given notice of the last Charter and Ordinance meeting but completely spaced it. (I should have put it in my phone)

Feel free to reach out to me with your thoughts or concerns. My contact number is listed below.

Respectfully,

Matthew A. Prouty
Commander
Rutland City Police Dept.
Executive Director
Project VISION
108 Wales St.
Rutland, Vermont 05701
1(802)558-0038

My summary of what I said at the 12/17/2020 meeting of the BOA's Charter and Ordinance Committee (without reviewing the video). The meeting (virtual) was recorded and should serve as the true and complete record.

The committee heard from several members of the BOA, who discussed charter change options including prohibitions while in uniform and prohibitions depending on the political office. When asked my opinion I stated I would address the committee as Commissioner Sargeant and again as Citizen Sargeant. I apologize in advance for the 'third person', but it clarifies the fact that I have two different roles and do not mix them.

- Commissioner Sargeant will support, execute, and administer any charter provision or charter change the BOA puts forward and the people of the City of Rutland approve.
- Commissioner Sargeant is not responsible for the constitutionality of the Charter.
- Commissioner Sargeant does not like suggested changes to prohibit political activities 'while in uniform'. Around a third of our front-line staff, including Cmdr. Prouty and the Street Crimes Unit, report to work every day in a suit. Is that their uniform? How do we write a charter change that addresses this and may be properly and clearly administered?
- Commissioner Sargeant is fine with the current Charter for several reasons
 - o It is simple to administer: 'no political activity other than to vote'. This is as cut and dry as it gets with no grey areas. It puts the RPD administration and Police Commission on firm ground and eliminates any possibility of preferential treatment or preferential discipline.
 - o It promotes department harmony at a time of increasing partisanship. The department does not need to manage conflict between employees who publicly support Candidate A vs. those who publicly support Candidate B.
 - o It protects the officer...
 - From complaints of bias from the public. Let's say an officer is a public supporter of Candidate A and executes an arrest on a public supporter of Candidate B. The arrestee could make a complaint of bias based on politics.
 - From politicians, who may condition employment or advancement on public political support.
 - 'no political activity other than to vote' protects the officer, the integrity of the department, and the City of Rutland.
- Citizen Sargeant finds it crazy that a city employee could not publicly support their spouse in a run for political office. This is perhaps why this issue generates so much emotion.
- Citizen Sargeant thinks tough. 'No political activity other than to vote' is a condition of employment in the RFD and RPD that is known, disclosed, and no different than conditions of employment that almost all of us have to deal with every day. In my business, I accept

or reject assignments every day that have 'supplemental assignment conditions' or other conditions of employment. If I don't want to work under these, I can simply not take the employment.