

GRIEVANCE REVIEW BOARD MINUTES
October 30, 2015

NOTE: THESE MINUTES ARE PRELIMINARY, AS THEY HAVE NOT BEEN APPROVED BY THE GRIEVANCE REVIEW BOARD. THE BOARD HAS NOT MET SINCE OCTOBER 30, 2015. THEREFORE, MEMBERS HAVE NOT YET HAD AN OPPORTUNITY TO REVIEW THIS DOCUMENT.

Present: Joe Hotynski, LeRoy Dahms, Brenda Keller, John Nichols, William Wagner

Excused:

Also present: Ron Montgomery, Captain Greg Cianciolo, Sheriff Matz, John Bodnar

Meeting called to order at 8:31 by John Nichols

Approval of the minutes of the 01-07-2015 meeting

Motion by Hotynski

Seconded by Dahms

Carried 5-0

Procedural Questions from Members: None.

Motion by Hotynski to go into closed session, **seconded by Keller, pursuant to an exemption provided in Section 19.85 (1)(b), Wisconsin Statutes, for the purpose of investigating charges against public employees and considering the possible discipline of public employees. Roll call vote: Hotynski, Aye; Dahms, Aye; Keller, Aye; Nichols, Aye; Wagner, Aye.**

Carried 5-0.

Discussion

Nichols noted that the Board had convened to consider disciplinary action of a Nine-Day Unpaid Suspension against Deputy Bryan Nagorny for violation of Rule of Conduct .22, Reporting for Duty.

Sheriff Matz presented the following:

1. **On April 29, 2015, the Sheriff recommended that Deputy Nagorny receive a one-day unpaid suspension for tardiness (RC 22 – Reporting for Duty).** He had been scheduled to report at 6:00 a.m. that day but did not. A supervisor tried to call him on the telephone. Failing to connect, the supervisor left a voice message. Deputy Nagorny returned the call a short time later, said he had overslept and would come to work immediately. He arrived at the Sheriff's Office at 6:40 a.m. that day. Under questioning, he said he had forgotten to set his alarm and that his tardiness was his fault. In the discipline document, Sheriff Matz noted that the sanction would be stayed and 'eliminated after one full year of no further similar Rules of Conduct violations.'
2. **On September 24, 2015, the Sheriff recommended that Deputy Nagorny receive a two-day unpaid suspension for tardiness (RC 22 – Reporting for Duty). The Sheriff also recommended that the Board impose the one-day stayed suspension, above, given that this infraction occurred within one year of the previous one.** He had been scheduled to report at 8:00 p.m. September 4 but did not.

A supervisor called him at home, awakening him. Deputy Nagorny told the supervisor he had overslept. He arrived at the Sheriff's Office at 8:31 p.m. that day. At work, Deputy Nagorny 'took responsibility for being late and is aware of the Sheriff's Office expectations regarding attendance,' according to the discipline Memorandum dated September 24, 2015. 'He has a history of habitual tardiness and his substandard attendance is adversely impacting the effectiveness of the Sheriff's Office.'

3. **On October 15, 2015, the Sheriff recommended that Deputy Nagorny receive a six-day unpaid suspension for tardiness (RC 22 – Reporting for Duty).** On October 8, 2015, Deputy Nagorny was scheduled to attend POSC (Principles of Subject Control) Use of Force Training at 7:00 a.m. that day but did not. A supervisor called him at home, awakening him. The Deputy said he was unaware he was scheduled to attend that training but reported to the Sheriff's Office at 8:00 a.m. that day. A Sheriff's Office investigation into this matter established that Deputy Nagorny 'received a memo via e-mail directing him to report for training on October 8, 2015,' according to the discipline memorandum dated October 15, 2015'. 'Additionally, the master work schedule maintained on the Sheriff's Office computer network mirrored the training memo and clearly indicates the scheduled training. When questioned, Deputy Nagorny admit[ed] to both receiving the training memo and checking the master work schedule on a regular basis. For reasons unknown to him, he failed to populate the information into his personal calendar and therefore failed to report for the mandatory training session. He has a clear understanding of the Sheriff's Office expectations regarding attendance. The training that he failed to report for is part of the State of Wisconsin training curriculum and required for continued employment with the Sherriff's Office. Deputy Nagorny has a chronic history of substandard attendance and his actions are adversely impacting the efficiency and effectiveness of the Sheriff's Office.'

The alleged infractions in Items 2 and 3 were to be combined into one case before the Board, and would include the enfolded alleged Item 1 infraction. **Total recommended unpaid suspension: Nine days.**

Deputy Nagorny has been employed with the Sheriff's Office since October of 2013.

Key discussion.

DAHMS: Deputy Nagorny acknowledges using Google Calendar but failed to place it on a shift calendar?

SHERIFF: Yes.

NICHOLS: Does he know the risk of termination with the next offense?

SHERIFF: Yes.

KELLER: You said he's a good employee. Have you told him that?

SHERIFF: Yes.

WAGNER: Is it possible that he could receive a Last-Chance Agreement and a *six*-day suspension?

SHERIFF: Yes. It is possible. We did consider one.

MONTGOMERY: (Noted that the County is generally disinclined to enter into Last-Chance agreements as a result of an adverse Administrative Law Judge's ruling regarding such an arrangement involving an employee in a different bargaining unit.)

(Discussion included a question of whether personal life issues may have impact on Deputy Nagorny's attendance. The Sheriff replied that it is possible, and that the Deputy has been offered opportunities to visit EAP if he desired.

Mr. Wagner argued that, given the great passage of time between the April alleged infraction and the day of this meeting, at which the Board sits to consider disciplinary action on the matter, such discipline would be unfair, frustrate and nullify the purpose of disciplinary action (to correct behavior and deter recurrence) and be contrary to his knowledge of proper labor relations as he had come to understand it during his long history as the County's Director of Human Resources.

Motion by Wagner to reduce the total number of unpaid suspension days to six. **Seconded by Keller**. Roll call vote: Hotynski, No; Dahms, No; Keller, Aye; Nichols, No; Wagner, Aye.

Lost 2-3.

Mr. Wagner asked about the cost to Deputy Nagorny of suspending him for nine days. The Sheriff and Mr. Montgomery replied that it would cost the deputy approximately \$1,700.

WAGNER: Given that the County usually uses progressive discipline, why did the proposed sanction jump from two days to six days?

SHERIFF: (Recited the prior cases and warnings, noting that the one-day imposed and stayed suspension 'didn't stop the behavior'. He noted that such matters are handled case by case.)

NICHOLS: (Noted the 'totality of the circumstances' and the 'steady drip of behaviors'.)

WAGNER: (Asked that since the first, one-day penalty was stayed, why was it not possible to stay part of the six-day suspension as well. 'The full six is demoralizing.')

SHERIFF: (Noted that the previous stay did not change behavior. 'In fact, [Deputy Nagorny] reoffended while charges were pending.')

WAGNER: Can the suspension be served by having his absence covered by [the loss of paid leave] instead? Doesn't his absence cause overtime?

SHERIFF: No. We schedule suspension time in a way that doesn't cause overtime. In the Jail, part-time Corrections Officers can plug gaps;

Motion by Hotynski to accept the Sheriff's recommendation of a nine-day unpaid suspension against Deputy Bryan Nagorny. **Seconded by (Dahms)**. Roll call vote: Hotynski, Aye; Dahms, Aye; Keller, Aye; Nichols, Aye; Wagner, Aye.

Carried 5-0.

Motion by Hotynski to reconvene in open session. **Seconded** by Keller.

Roll call vote: Hotynski, Aye; Dahms, Aye; Keller, Aye; Nichols, Aye; Wagner, Aye.

Carried 5-0.

Motion to adjourn by Hotynski, Seconded by Keller. Roll call vote: Hotynski, Aye; Dahms, Aye; Keller, Aye; Nichols, Aye; Wagner, Aye.

Carried 5-0.

Submitted by

Ron J. Montgomery

Department of Human Resources