

SPECIAL COMMISSIONERS MEETING

June 18, 2021

YORK,ss

At a special meeting of the County Commissioners of the County of York, begun and holden at the York County Government Building in Alfred, within and for the County of York, being held on Wednesday, June 18, 2021 A. D. at 9:00 A. M.

COMMISSIONERS PRESENT:

Richard R. Dutremble
Richard Clark
Robert Andrews
Allen Sicard
Donna Ring

County Manager Gregory Zinser was present at the meeting.

YOU ARE INVITED TO RISE AND SALUTE THE FLAG OF THE UNITED STATES

06-18-21 ITEM

- 1 TO REVIEW AND CONSIDER PERSONNEL MATTER** (executive session may be necessary-consultation with legal counsel pursuant to 1 M.R.S.A. § 405 (6) (E), review of confidential records pursuant to 1 M.R.S.A. § 405 (6) (F)) and where public discussion could be expected to cause damage to an individual’s reputation or right to privacy pursuant to 1 M.R.S.A. § 405 (6)(A)(1))

Commissioner Dutremble invited County Attorney Tim O Brien to provide an overview of the purpose of the meeting and the process to be followed that included the statutory basis and framework for the hearing and the presentation of witnesses and evidence.

Attorney O’Brien noted that the Commissioners had convened a special meeting to hear and consider the determination of York County Sheriff William L. King that the employment of the Jail Administrator, Lieutenant Colonel Michael Vitiello, should be terminated for cause. In particular, Section 501(3) of Title 30-A of the Maine Statutes specifies that an employee may be dismissed by a county officer or department head, such as the Sheriff, only for cause and with the prior approval of the County Commissioners. The law further specifies that cause for

dismissal must be a just, reasonable, appropriate and substantial reason for the action taken that relates to or affects the ability, performance of duties, authority or actions of the employee or the public's rights and interests.

He also noted that the Commissioners had received all of the exhibits from both parties several days in advance of the hearing and so they had an opportunity to review the documents so that they could understand the evidence, the issues and the points being made in the testimony.

He stated that the two parties to this matter, Sheriff King and Lieutenant Colonel Vitiello, are represented by their own individual attorneys who would present the respective cases on their clients' behalf to the Commissioners. Sheriff King is represented by Attorney Linda McGill and Attorney Matthew Tarasevich. Lieutenant Colonel Vitiello is represented by Attorney Michael Waxman. He also noted that a court reporter is present to prepare a complete record of the proceeding.¹

Sheriff King then presented his case in support of his decision first.

Sheriff King testified through questioning by his attorney, Linda McGill. He described the reasons in support of his decision to terminate the employment of Lieutenant Colonel Vitiello in a manner that was consistent with the information set forth in his letters of March 23, 2021 and May 17, 2021.

Sheriff King was cross examined by Attorney Waxman.

BREAK

Back in Session

Attorney Waxman continued his cross examination of Sheriff King.

Attorney McGill conducted re-direct examination of Sheriff King.

No additional witnesses were offered by Sheriff King or Attorney McGill.

The independent investigator's report, the exhibits and the letters were admitted into the record.

Attorney Waxman stated that the burden has not been carried by the Sheriff to show cause for termination.

Commissioner Dutremble replied that the Attorney Waxman's point was noted for the record and then allowed Attorney Waxman to proceed with the presentation of Lieutenant Colonel Vitiello's case.

The first witness was Androscoggin County Jail Administrator Jeffery Chute.

¹ Because a verbatim transcript of the Special Commissioners' Meeting is in the process of being prepared, but not yet completed, these minutes are being released at this time in the interest of governmental transparency consistent with the Freedom of Access Act. However, they will be superseded by the transcript when it is complete.

Before the questioning began, Attorney Tarasevich raised a procedural issue on the relevance of the testimony.

Commissioner Dutremble allowed Attorney Waxman to lay a foundation for the testimony, which he did and the testimony proceeded. Major Chute described his working relationship with Lieutenant Colonel Vitiello and his recognition of him as an expert in the field, among other things.

Attorney Tarasevich cross examined Major Chute.

Because other witnesses had not yet arrived, Attorney Waxman had Lieutenant Colonel Vitiello start his testimony and Lieutenant Colonel Vitiello provided some background information and past experiences.

By that time, Major Paul Mitchell arrived and so Lieutenant Colonel Vitiello's testimony was paused and Major Mitchell testified. Attorney Tarasevich raised an issue over the relevance of the potential testimony. Commissioner Dutremble allowed Attorney Waxman to lay the foundation for his testimony which he did and Major Mitchell proceeded to testify.

Major Mitchell testified about his experiences working with Lieutenant Colonel Vitiello and his observations on Lieutenant Colonel Vitiello's role as a member of senior management in the Sheriff's Office and his working relationship with the Sheriff, among other things. He also testified about how the Patrol Deputies addressed COVID when the Pandemic started.

Attorney Tarasevich cross examined Major Mitchell.

Captain Carl Ronco was the next witness called by Attorney Waxman. He described his duties and the approach to and experiences with masking in different situations within the Jail.

Attorney Tarasevich cross examined Captain Ronco.

Attorney Waxman conducted re-direct examination.

Attorney Waxman called Corrections Officer Brian Maddox as the next witness.

Officer Maddox briefly described his lengthy service at the Jail and his role as the president of the union representing the corrections officers. He also described his working relationship in that position with Lieutenant Colonel Vitiello.

LUNCH BREAK at 12:30 .

Hearing reconvened at 1:15.

Lieutenant Vitiello resumed his testimony that was briefly started earlier.

Lieutenant Colonel Vitiello testified as to his view on the masking and health screening issues, his belief that masking and health screening of staff could not be implemented until an agreement was reached with the union, the evolving nature of COVID and information about it and how to deal with it, his relationship and role with the Sheriff, the decision making on mask wearing, and the Sheriff's role as the final decision maker. Lieutenant Colonel Vitiello explained how the Sheriff's decision to terminate his employment was not justified. He provided testimony on the different issues raised in the Sheriff's termination letter and why he believed the Sheriff reached the wrong conclusions and was not supported by the facts.

Attorney McGill cross examined Lieutenant Colonel Vitiello.

A 10 minute recess was taken and the hearing resumed at 2:58 p.m.

Attorney McGill concluded her cross examination of Lieutenant Colonel Vitiello.

Attorney Waxman indicated that he had presented all the witnesses on behalf of Lieutenant Colonel Vitiello's case.

Attorney McGill stated that she would like to recall Sheriff King in rebuttal.

Sheriff King testified about his recollection of what occurred around several of the issues raised by Lieutenant Colonel Vitiello in his testimony and the reasons for his decision to terminate the employment of Lieutenant Colonel Vitiello.

Attorney Waxman cross examined Sheriff King.

No further witnesses were presented by either side.

The exhibits provided by both parties (other than Exhibit 1 of Lieutenant Colonel Vitiello's exhibits) were accepted into the record by Commissioner Dutremble.

Attorney McGill and then Attorney Waxman presented their respective closing statements to the Commissioners.

Attorney O'Brien briefly summarized the process and read the relevant portions of the statute related to the Commissioner's review of a termination decision and the standard for "cause". He then turned it over to the Commissioners to proceed at their discretion.

Commissioner Dutremble asked the Commissioners if they had any comments.

Commissioner Clark stated that he had read the report that Leah Rachin provided several months back and he read it again. He added that he read all the evidence and documents submitted and that he has listened carefully to all the attorneys. Commissioner Clark stated that he would like to compliment the attorneys for their presentation of their respective cases. He continued that he was ready to move forward but that if any member needs more time, he was ready to accommodate that.

Commissioner Ring added that she has also had time and read each and every document two times over and all her questions were answered during the course of the hearing.

Commissioner Sicard stated, likewise that he has had the time to digest the information. He also said thank you to the attorneys and that his questions were also answered.

Commissioner Andrews stated that he has read through everything. He continued that the more he labored, the harder it was for him to make a decision. He stated that he has the highest respect for both Sheriff King and Lieutenant Colonel Vitiello but unfortunately, a decision has to be made and he is prepared to do so.

Commissioner Dutremble said he was ready to proceed as well.

Commissioner Clark moved to approve the Sheriff's decision. He added that it is a terrible thing to have to do but that he feels it has to be done. What happened in the jail was no small matter and can't be dismissed as a simple mistake. It brought the County into danger both to the people who were in the care of the jail and the people and their families that work in the jail. It is a danger financially and the County will be feeling the impacts for a long time. Commissioner Clark stated that he feels there are consequences to what we do. He added that he also feels the Sheriff has the right to have confidence in the people that work for him.

Commissioner Sicard stated that we appreciate that Michael Vitiello is a York County employee. He's been on paid leave for 10 months and an independent investigation was done.

Commissioner Sicard then seconded the motion.

Commissioner Clark stated that he wants to add to the motion that the County Attorney is directed to prepare Findings of Facts for the Commissioners to consider at the next meeting. The amendment was accepted by the unanimous consent of the Commissioners.

A vote was taken on the motion as amended with all Commissioners voting in the affirmative.

Vote 5-0.

2 ADJOURN

Commissioner Clark motioned to adjourn. Commissioner Sicard seconded the motion. Vote 5-0.
Hearing ended at 3:49 p.m.