



City of Methuen, Massachusetts

OFFICE OF THE MAYOR

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William M. Manzi, III
Mayor

May 7, 2008

Mr. Joseph E. Solomon
Bruce Street
Methuen, MA 01844

RE: Notice of Decision: M.G.L. c. 31, § 41
Disciplinary Hearing: February 19, 2008 through to April 14, 2008

Dear Sir:

On January 31, 2008, you were served, through your legal counsel, by this office with a Notice of Hearing pursuant to the provisions of M.G.L. c. 31, § 41 that a hearing was to be held on February 19, 2008, at 10:00 a.m. at City Hall to determine whether or not there was just cause to take disciplinary action against you including a term of suspension or possible discharge from your duties as Chief of Police for alleged conduct as described in said notice. Pursuant to the same a full hearing commenced on February 19, 2008 and concluded on April 14, 2008. Michael J. Marks, Esq. presided as hearing officer on behalf of the appointing authority pursuant to the provisions of M.G.L. Chapter 31, § 41. You were represented by legal counsel. City Solicitor, Peter J. McQuillan and Atty. David E. Grunebaum represented the appointing authority.

On May 5, 2008, the hearing officer, Michael J. Marks, pursuant to the foregoing statute, reported his findings, in writing, to this office in the form of a Hearing and Recommendation, a complete copy of which has been provided to your legal counsel and a copy of which is attached hereto.

Upon review of the same, I find this report to be a comprehensive, thorough and objective account of what transpired during the course of said hearing. Reference therein is made to witnesses, including yourself, their testimony, the subject matter of that testimony and documents submitted into evidence by both parties.

Therefore, based upon the full record of the proceedings, I hereby adopt the findings of fact (commencing on Page 9 of said Report) and the recommendations of the hearing officer with the exception of those findings on Charge Six. Contrary to the recommendations of the hearing officer on that charge, I find that there was sufficient evidence by way of testimony of Walter Flanagan, whose credibility was affirmed by the hearing officer, and Lt. Michael Wnek to establish that a meeting as described in this charge did in fact occur. This determination is predicated upon a review of the transcripts of all witnesses who testified on this issue.

Mr. Joseph E. Solomon

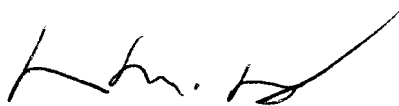
May 7, 2008

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Further, taking into consideration the reasons contained in my Notice of Hearing dated January 31, 2008 and the affirmation and corroboration of those reasons therein as contained in the Hearing and Recommendation, and all evidence referenced therein, I, as the appointing authority for the City of Methuen, with the exception of those partial findings to the contrary on Charges One, Five and Eight, have determined that just cause does exist for the purposes of imposing disciplinary action against you. Pursuant thereto, I further adopt the recommendation of the hearing officer and hereby discharge you from your duties as the Chief of Police of the Methuen Police Department, effective immediately.

By this letter, I am directing the Human Resources Director of the City of Methuen to file a copy hereof with the office of the Personnel Administrator of the Human Resources Division.

Very truly yours,

A handwritten signature in black ink, appearing to read 'W. Manzi', written over a horizontal line.

William M. Manzi, Mayor

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May 5, 2008

Mayor William M. Manzi, III
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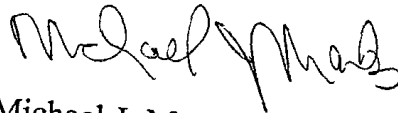
Dear Mayor Manzi:

RE: Solomon Hearing

Enclosed please find Hearing and Recommendation on Joseph Solomon.

If you should have any questions please feel free to contact my office.

Sincerely,



Michael J. Marks

MJM/dkb

Enclosures

xc: Andrew Gambaccini, Esquire
David Grunebaum, Esquire
Peter J. McQuillan, City Solicitor

PROCEDURAL BACKGROUND

On January 31, 2008, Methuen City Solicitor Peter J. McQuillan, sent correspondence to Andrew J. Gambaccini concerning his client Joseph E. Solomon, Chief of Police of Methuen, Massachusetts. The correspondence was a notice of hearing pursuant to Mass General Laws, Chapter 31-41.

The correspondence contained nine charges alleging violations by Chief Solomon. The correspondence also included copies of Mass General Laws Chapter 31, Sections 41-45. Notice was given that a hearing on the charges was to be held at Methuen City Hall on February 19, 2008 commencing at 10:00 a.m.

THE HEARING

Pursuant to the January 31, 2008 Notice, a hearing was commenced on February 19, 2008 at 10:00 a.m. The City was represented by Attorney David Grunebaum and City Solicitor Peter McQuillan. The employee was represented by Andrew J. Gambaccini and John Vigliotti.

During the course of seven days of hearing, numerous exhibits were offered and admitted into evidence. The exhibits allowed during the hearing are identified as follows;

Attorney David Grunebaum made an opening statement on behalf of the City of Methuen. His opening provided an overview of nine charges being brought by the City against Joseph Solomon. The remarks provided by Attorney Grunebaum were summaries of the charges contained in the 11 page Notice of Hearing sent to Joseph Solomon by William M. Manzi.

Attorney Gambaccini also made an opening statement prior to the first witness being sworn. Attorney Gambaccini also summarized the nine charges brought by the city in addition to providing a personal background of Joseph Solomon's employment with the City of Methuen. In addition, Attorney Gambaccini sought to provide context for what he described as "the animating reason why we are here."

The first witness to testify on behalf of the city was Larry J. Phillips. Sgt. Phillips testified that he has been employed by the Methuen Police Department for approximately 24 years. More than 17 years of his service was as a Sergeant in the Methuen Police Department.

He was asked a series of questions concerning an investigation he conducted in the Spring of 2006 related to allegations of receiving stolen property. He testified that during the course of the investigation, he was ordered by Lt. Wnek to charge a particular individual with the crime of receiving stolen property, and to not charge another individual. The individual not charged was related to Solomon. Phillips was so concerned at this directive that he reported the matter to the FBI. Many months later, Phillips testified that Joseph Solomon advised him to refer all questions concerning the investigation to the Deputy Chief. Phillips was directed by the Deputy to refer the matter to the District Attorney's Office. Phillips further testified that in August of 2007 the FBI advised him that Solomon's brother-in-law had been summoned to a Federal Grand Jury concerning this matter.

Phillips was asked questions concerning an incident which occurred at the Methuen Police Department in the evening hours of August 24, 2007. Phillips testified that on that evening, several officers were in the Squad Room having dinner and writing reports. A television in the room was tuned to a New England Patriot's pre-season football game. According to Phillips, Solomon entered the Police Station and walked by the office occupied by Lt. Wnek and himself. The Chief did not acknowledge the Sgt. or Lt., but instead proceeded to the squad room. According to Phillips, the Chief yelled for the Lt. and Sgt. to come to the

Squad Room. Phillips testified that upon his arrival he found Solomon yelling obscenities, red faced and irrational. He described the Chief as being out of control. Solomon ordered the officers present in the Squad Room to write reports and "you better not lie." Thereafter, Solomon left the Station.

According to Phillips, on August 25, 2007, one day after the incident in the Squad Room, he was informed he was being placed on administrative leave. He was ordered to surrender his badge and gun, but was not told why these actions were being taken. Several days later, Phillips was ordered to take a fitness for duty evaluation. This evaluation included a lengthy written examination as well as interviews conducted by a clinical social worker. According to Sgt. Phillips, he was still unaware as to the rationale for being placed on administrative leave. Phillips was subsequently contacted by Solomon and returned to duty. According to Phillips, he was never given a copy of the evaluation report.

Phillips also responded to a series of questions regarding property located at 38 Baremeadow Street. He testified that Chief Solomon's sister occupied the residence located at this address. Phillips stated a standing order was directed to all shifts directing property checks be made at the home belonging to Solomon's sister. He further testified that such a standing order was "most unusual". The City did not produce a copy of the standing order but did produce in the form of exhibit 5, a location history report detailing hundreds of property checks at the 38 Baremeadow Street location.

Phillips also testified to what he described was a unique situation regarding the Methuen Police Department and the owners of the residence at 38 Baremeadow Street. Phillips testified that in 2004, Methuen Police Department Detectives were instructed to install surveillance equipment in Solomon's sister's home. The camera was mounted on a telephone pole in the driveway and a wireless receiver and monitor was placed in her home. According to Phillips, he was unaware of police personnel ever being ordered to install surveillance equipment on any other locations in the City of Methuen.

Sgt. Phillips concluded his direct examination by asserting that in his years on the Methuen Police Department he had never been disciplined.

Sgt. Phillips was asked a series of questions on cross-examination by Attorney Andrew Gambacinni. Phillips testified that Solomon did not personally direct the investigation away from his brother-in-law but it was an assumption made by Phillips that Solomon was responsible for the directive. Phillips also testified that when he met with Solomon to inform him of the FBI investigation, he was told by Solomon to confer with the Deputy Chief. A series of e-mails in employee exhibit # 1, culminated with a July 6, 2007 Memo from Phillips to Deputy Chief Alaimo, indicating that the District Attorney did not feel sufficient evidence existed at the time to proceed with charges against Solomon's brother-in-law.

Phillips admitted on cross-examination to making an obscene gesture to two employees on the evening of the Patriot's incident and asking a female employee if her over-time schedule was because of her friendship with Solomon.

The Sgt. testified he believed a written standing order was in existence concerning property checks at 38 Baremeadow Street, but was unable to produce such a writing. Phillips testified that the camera placed on the telephone pole at 38 Baremeadow Street faced towards the public way and not towards the residence. Finally, the Sgt. testified that he was unaware of any other surveillance camera being used in the same manner as at 38 Baremeadow Street.

On re-direct examination, Phillips testified once again to Solomon's behavior on the evening of the Patriot's game. He stated he had never seen Solomon out of control before nor had he seen any Superior Officer act in the manner Solomon did on the evening in question. That concluded Phillips' testimony.

The next witness to testify was Roderick C. Moore, Jr. Mr. Moore's testimony had not been anticipated at the commencement of this hearing. Mr. Moore testified he is in the carpet cleaning business. Mr. Moore testified that he placed a call to a local restaurant owner in order to schedule a carpet cleaning appointment. During the conversation with the restaurant owner, the phone was placed into the hands of an individual identified as Robert Moglia. Moore testified that Moglia advised him that Moore's brother James would lose his job as a Police Officer if he testified in the Solomon hearing. Further testimony revealed that Moglia and Solomon were personal friends. That concluded Mr. Moore's testimony.

Robert Moglia testified later in the hearing, but his testimony will be summarized here as follows: Mr. Moglia testified to the close relationship he enjoys with Joseph Solomon. They have been friends for more than 15 years, and Moglia used Solomon's home from which he ran a telemarketing business. He testified that he had known Rodney Moore for approximately 4 years, and had used him to clean a business he operated. Moglia testified that the conversation with Moore took place on the phone located at Amalfis Restaurant.

Moglia also testified that he and Moore spoke on the phone. According to Moglia's testimony, Mr. Moore stated he felt badly about his brother being involved in Chief Solomon's problems. Moglia professed not to be aware of the fact that Jamie Moore had written a report concerning the Patriot's incident. Moglia testified he said to Rodney regarding the report "I mean if he ever went before a grand jury or something like that as a Police Officer you know Rod, he could lose his job." Moglia testified that, "this was the only allusion to Jamie Moore's career as a Police Officer".

The next witness to testify for the City of Methuen was John Sullivan. Mr. Sullivan testified he is a Principal in Melanson Heath Company, and is a certified Public Accountant with thirty years experience. He was asked by Mayor Manzi to examine the Methuen Police Department's handling of the Weed and Seed Program. The Mayor's request was made in large part because of an on-going US Department of Justice investigation into the Weed and Seed Program.

Mr. Sullivan testified it was his goal to demonstrate to the Department of Justice that the Methuen Police Department acted properly in its administration of the Weed and Seed Grant. Pursuant to that goal, Mr. Sullivan compiled Methuen Police Department payroll records, grant documents, supporting documents, Department of Justice correspondence to the City of Methuen, and payroll records for the ten highest paid police employees. Mr. Sullivan testified he also interviewed Police Supervisors and Patrolmen. Mr. Sullivan did not interview Joseph Solomon, nor did he seek such an interview.

Mr. Sullivan testified in some detail about the procedures used in the Methuen Police Department to document time spent on the Weed and Seed Grant. A system known as Pro IV was used to document time spent on the grant. Mr. Sullivan testified concerning the internal controls required to make certain that an individual actually performed work for over-time payment.

Mr. Sullivan testified to the capabilities, limitations, and nuisances attributed to the PRO IV System. When cross-examined by Attorney Gambaccini, Mr. Sullivan acknowledged that the Pro IV System was in use prior to Solomon becoming Chief. Mr. Sullivan was unaware of changes made to the system by Chief Solomon.

During his direct testimony, Mr. Sullivan referred to procedures utilized by the department to make certain that overtime worked under the grant was actually performed. Patrolmen were required to submit an activity report which documented specific activities performed. Supervisory Personnel were not required to submit these activity reports. Mr. Sullivan testified that he was not surprised by this difference. It was his testimony that this procedure was common in other municipalities for whom he had performed work.

Next to testify for the City of Methuen was Scott McIntire. Mr. McIntire testified he also is a Principal in Melanson Heath. He assisted Mr. Sullivan with his work on the Weed and Seed audit, and also was involved in prior citywide audits. He testified that part of his citywide audit included an examination of the Weed and Seed Grant. His services included random checks of Police vendors and an examination of police payroll records. Mr. Sullivan testified that during this examination in 2005, he found nothing unusual related to the Weed and Seed Program.

Mr. McIntire testified that at the time he examined records for Fiscal Year 2005, he was operating under the understanding that individuals in the department did not enter their own overtime, and documentation existed for time actually worked. Mr. McIntire further testified that if certain internal controls were compromised, then the entire system and its reliability would be brought into question.

The next witness called by the City of Methuen was Lt. Michael Wnek. Lt. Wnek testified he has been employed by the City of Methuen Police Department since July 1987. He was promoted to the rank of Sgt. in 1993, and was appointed Lt. in 2001.

The testimony of Lt. Wnek covered several areas relevant to this hearing. The first area of concern dealt with the incident on August 24, 2007. Lt. Wnek testified he was working the early evening shift on August 24th, which covered the time period from 4:30 p.m. until 12:30 a.m. According to Lt. Wnek, Solomon

entered the Police Station at approximately 8:45 p.m. Lt. Wnek was the shift commander that evening. Solomon walked by the Shift Commanders Office and quickly proceeded to the Squad Room. He screamed for Lt. Wnek and Sgt. Phillips to come to the Squad Room. Lt. Wnek testified that Solomon was screaming at the top of his lungs demanding to know "how many people on the street?" Lt. Wnek continued his testimony stating that Solomon was demanding written reports from the five officers present in the Squad Room that evening. In a profanity laced tirade, the Chief warned the officers about lying in their reports. According to Lt. Wnek, the presence of five officers in the Squad Room was not an unusual occurrence. Lt. Wnek made attempts to speak with Solomon about the Squad Room incident, but Solomon rebuffed his attempts. According to Wnek, he called Solomon three times on his Nextel phone, but each time was advised by Solomon he did not want to have a conversation about the incident.

Lt. Wnek testified that on August 29th or 30th 2007, he was summonsed to Chief Solomon's Office. Deputy Chief Alaimo was present along with Solomon. Solomon presented a disciplinary letter to Wnek which contained a one day suspension along with three days work without compensation. Lt. Wnek asked if he could discuss a reduction in discipline, at which time Solomon asked Lt. Wnek about a Memorandum he had sent to Captain Guy. According to Wnek, his version of the events on August 24th was sent by way of an internal memorandum to Captain Guy. Lt. Wnek accepted responsibility for the presence of the five officers in the Squad Room on August 24th. Lt. Wnek testified Chief Solomon told him that Captain Guy did not receive the report. According to Lt. Wnek the Chief waved the report in his face and suggested that Wnek shred the report, prepare a new report and place responsibility on two officers present in the Squad Room that evening. Using the coarsest of language, Solomon suggested to Lt. Wnek that he wanted Deleon and Dzioba. These two officers were present on August 24th, and were also present for former union officials. Lt. Wnek asserted that he was not going change his report. At that point, Deputy Alaimo became involved in the conversation. Lt. Wnek testified that Alaimo, while pointing a finger in his face and shaking the report, tried to convince Wnek to shred the document. Before leaving the Chief's Office, Lt. Wnek testified the Chief threatened him with unspecified future action. Lt. Wnek testified the meeting left him intimidated, shocked, and in fear he would lose his job.

Lt. Wnek also testified both on direct and cross examination about the installation of surveillance equipment at 38 Baremeadow. He characterized the area as a country setting. His testimony was that there was neither gang activity nor drug dealing in the area. He did not consider the Baremeadow neighborhood a high crime area.

Tom Kelly was the next witness to testify at the hearing. Scheduling concerns required Mr. Kelly to be called out of order. Without objection, Mr. Kelly was called as a witness by the representative of the employee. Mr. Kelly has been Auditor of the City of Methuen for 18 years. Prior to that, Mr. Kelly had been town accountant overseeing all financial aspects of the city. He testified that in June of 2006, he attended a conference with Melanson Heath. It was his testimony that in 2006 there were no financial concerns regarding the Weed and Seed Program. Mr. Kelly testified he was responsible for assembling documents concerning the Weed and Seed Program as it related to the Federal Investigation. He testified he worked closely with Solomon in coordinating the assemblage of documents. He also testified about the Purchasing procedure within the City of Methuen. He testified concerning his attendance at Municipal Budget Workshops where professional services for outside law firms was discussed.

Next to testify was Walter Gus Flanagan. Mr. Flanagan was employed by the Methuen Police Department from 1972 until 2005. The last twenty of those years he was a Detective within the Department. Mr. Flanagan testified concerning an investigation into the passing of counterfeit money. Four suspects were identified, and criminal complaints were brought against all four. According to Detective Flanagan, he was summoned to Chief Solomon's Office sometime in the Spring of 2003. Present at that meeting was Chief Solomon, former Methuen Police Officer Michael Alaimo, Deputy Chief Joseph Alaimo, and Lt. Michael Wnek. Michael Alaimo was working on behalf of one of the Defendant's as a Private Investigator. According to Flanagan, he was ordered by Deputy Chief Alaimo to "tell my father everything he asks you." The Detective testified that in thirty two years as a police officer, he had never been ordered to talk with a private party concerning an open criminal case. The Detective testified the setting and tone of the meeting caused him to feel intimidated.

The Detective testified concerning a second meeting which took place in Chief Solomon's Office. Present at this meeting was Deputy Chief Alaimo and Solomon. Flanagan testified he was accused by Chief Solomon of trying to cause trouble for Deputy Chief Alaimo and himself. This accusation was in the context of a Federal Investigation which was ongoing during that time period. Flanagan also testified that he was physically threatened by Deputy Alaimo.

A third meeting occurred again called by Chief Solomon. This took place sometime in November of 2004 at a federal office located in Methuen. According to Flanagan, the Chief accused Flanagan of gathering information against him, and turning the information over to federal authorities. Solomon also accused Flanagan of spreading vile rumors about Deputy Chief Alaimo and his father. Flanagan denied being the source of the rumors.

Attorney Gambaccini inquired as to the nature of the relationships Flanagan had with the Chief, the Deputy and his father. Flanagan professed to have great respect for Michael Alaimo but less for his son. The nature of Flanagan's relationship with Solomon was a bit more complicated. The Detective testified he had great respect for Solomon's work up to the time he was appointed Chief. Flanagan testified that in his opinion, Chief Solomon was highly intelligent and professional. His opinion changed after the meetings during which he felt threatened and intimidated. Although not threatened directly by Solomon, Flanagan's testimony was the Chief did nothing to prevent the threats and intimidation or to take corrective action against those directly involved.

Joseph Alaimo was the next witness to testify. Mr. Alaimo was the Deputy Chief of the Methuen Police Department having retired in March of 2008. He became Deputy Chief in 2002. Alaimo was questioned about a meeting with Lt. Wnek. Wnek was asking the Chief and Deputy for leniency related to his part in the Patriot's incident. According to Alaimo, he suggested Wnek prepare a revised report which told the truth about the incident. Alaimo had concluded that the Lieutenant's initial report was not truthful. Alaimo testified concerning his role as the coordinator of the Weed Program, which was a component of the Weed and Seed Grant. He testified he did not believe that the Spring 2003 meeting ever occurred. The Deputy's testimony will be referenced in a latter portion of this report.

City Solicitor Peter McQuillan was called next to testify. The Solicitor's testimony focused in large measure concerning the responsibilities of various city official's for responding to requests for documents by the Federal Government. His testimony included wide ranging responses to questions dealing with municipal budgets, ethics requirements, conflict of interest considerations, and disclosure of privileged information.

Matthew Kraunelis was the next witness called to testify. Mr. Kraunelis is the Mayor's Chief of Staff, a position he has held for two and half years. Prior to his present position, Mr. Kraunelis was a three term City Councilor. His testimony focused on the preparation of a draft press release concerning the Patriot's incident. This release was prepared in cooperation with Chief Solomon's Office.

Attorney John Vigliotti was the next witness called. He testified concerning a March 2007 meeting which took place at the Methuen City Solicitor's Office. The meeting was attended by Solomon, Vigliotti, and Agents from the Federal Government. Attorney Vigliotti's testimony focused on the issue of Solomon's statements to Federal Agents concerning supervisory overtime. Specifically, his testimony dealt with whether supervisor's routinely entered their own overtime.

Joseph Solomon was the next witness to testify. Direct examination of Mr. Solomon was conducted by Andrew Gambaccini. Mr. Solomon's testimony was interrupted by a prior witness recalled by the city. However, for purposes of this summary, Mr. Solomon's testimony will appear without interruption.

Joseph Solomon testified he began his employment with the Methuen Police Department in 1986 as a reserve officer. In that same year, he was appointed full time and he rose through the ranks of Sergeant, Lieutenant and Captain. In 2002, he was made acting Chief and appointed permanently in 2003. He testified to having received several awards including National Shared Vision Award for his work in Neighborhood Crime Watch.

Mr. Solomon testified concerning prior evidence related to receiving stolen property. He testified the individual in question was not his current brother-in-law, but rather the husband of his former wife's sister. It was his testimony he was contacted by this individual concerning potential criminal charges. He was advised by Mr. Solomon to make reports to police

departments investigating the incident. According to Solomon, he removed himself from any consideration related to this matter.

Mr. Solomon also testified to the incident involving the Patriot's game. According to Solomon, he saw three cruises parked at the Police Station and found that to be unusual. He entered the building, and saw five police officers seated in the Squad Room. All five were watching the Patriot's game. He called for the Lt. and Sgt. to come to the Squad Room. Solomon testified that at no time did he raise his voice. He testified he was upset and disappointed but did not use profanity. He testified that only after placing Sgt. Phillips on administrative leave did he discover that Phillips was testifying before a Grand Jury in the matter related to Solomon's former brother-in-law. He also asserted he was unaware, on the evening of the Patriot's game, that his former brother-in-law received a summons to appear before a grand jury.

Solomon continued his testimony related to his sister's home at Baremeadow. He testified drug activity and other criminal behavior was a problem in that area. He also testified to at least two other instances in which surveillance cameras were utilized by Methuen Police.

Mr. Solomon continued his testimony by detailing steps he took to comply with ethics regulations related to his sister's marina.

Mr. Solomon asserted in his testimony that the meeting alleged to have taken place involving Deputy Chief Alaimo and his father, never took place. He testified that two meetings which occurred involving Lt. Flanagan were attempts to stop rumors swirling around the Methuen Police Department.

The issue of outside legal counsel was also discussed by Mr. Solomon. He testified in some detail concerning the Police Department budget for outside legal counsel, and his discussions with Mayor Manzi concerning the issue.

Mr. Solomon testified extensively to the Weed and Seed Federal Grant. He was primarily responsible for the Weed and Seed Program in the City of Methuen. According to Solomon the program was initially a Community Development responsibility, but early on shifted to the Police Department. Solomon was Head of the Neighborhood Services Bureau and by virtue of that title, he became the Weed and Seed Coordinator.

Solomon testified in great detail concerning many aspects of the program. The charges brought against the City of Methuen involve allegations of mismanagement, causing the City of Methuen to receive a directive ordering \$170,000.00 be repaid to the Federal Government. The allegations of mismanagement included instances where there were no supporting records documenting hours allegedly worked by employees, and instances where officers were paid without requiring them to perform the work pursuant to the terms of the grant. Mr. Solomon asserted he and his fellow superior officer's not only worked the number of hours for which they were paid, but in many instances worked many hours without any compensation.

Mr. Solomon also testified to a meeting with Special Agent David R. Glendinning. MR. Solomon testified to inconsistencies between his recollection of the meeting and Glendinning's written report.

Mr. Solomon testified on cross-examination at some length. Portions of his cross-examination will be discussed in a subsequent section of this report.

Lt. Michael Wnek was recalled by the City of Methuen. Wnek testified he recalled a meeting in the Spring or Summer of 2003 which occurred in Chief Solomon's Office. He testified he recalled Chief Solomon, Deputy Chief Alaimo, retired Chief Official Michael Alaimo, and Gus Flanagan being present for the meeting. Wnek was present in Solomon's Office before and after the meeting but did not take part in the meeting. According to Wnek, Deputy Chief Alaimo was upset with Flanagan at the conclusion of the meeting.

The next witness to testify was Michael Alaimo. Mr. Alaimo was a retired Police Officer in the City of Methuen. He currently is head of Eagle Investigation Services. Mr. Alaimo testified to his work as a Private Detective and to several conversations he had with Gus Flanagan concerning counterfeit money. He testified concerning several conversations with Gus Flanagan, but denied any meeting took place involving Chief Solomon, Deputy Chief Alaimo and Gus Flanagan.

Upon the completion of testimony, Attorneys for both sides made closing statements and the hearing was completed.

DISCUSSION AND RECOMMENDATIONS

In its January 31st, 2008 letter to Attorney Gambaccini, the City of Methuen brought nine charges against Chief Joseph E. Solomon. During the many days of hearings, the City dismissed what it listed as Charge #4, a lawsuit brought by Solomon in Essex Superior Court. The remaining charges will be discussed below.

Charge #1 speaks generally to allegations regarding violations of ethics. The first matter for consideration relates to the relationship between Solomon and his former brother-in-law. Attorney Gambaccini correctly pointed out in his closing statement that the former brother-in-law is not a family member as defined by Mass General Laws Chapter 268A. However, by his own statements, Solomon recognized a perceived conflict and was therefore required to make full disclosure to the appointing authority. Solomon failed in this regard.

The second component in Charge #1 relates to the perceived conflict discussed earlier. Testimony from Sgt. Phillips indicated he was ordered not to bring charges against Solomon's former brother-in-law. Phillips conceded that this order was not directly given by Chief Solomon, but rather by Lt. Michael Wnek. There is no corroborating testimony or evidence that Solomon directly interfered with the investigation. In this narrow area concerning Solomon's direct involvement with the investigation it is my opinion that the City of Methuen has failed to provide sufficient evidence to determine just cause exists for discipline.

The next component in Charge #1 concerns dissemination of official information. Exhibit #3 is a letter dated September 24, 2007 from Solomon to Mayor William M. Manzi. This letter involves a professional standards investigation. The letter contains information and recommendations concerning four Methuen Police Officers. Copies of the letter were sent by Solomon to three private attorneys. The letter also notes that copies of investigative files had been sent to them. The dissemination of this information is a serious lapse of judgment on the part of Chief Solomon.

It is clearly a violation of Section 6.6 of the Methuen Police Departments Rules and Regulations. It is not possible from testimony to determine precisely what additional information was included in the letter to private counsel, however, cross-examination at the disciplinary hearing indicates personal, medical and psychological history of Sgt. Phillips was included. In my opinion the City has provided ample just cause to support these allegations.

Charge # 1 also includes allegations concerning police resources being expended at 38 Baremeadow Street. This is a residence owned by Solomon's sister. The city alleges that Solomon abused his office during the term as Chief by ordering Methuen Police Officers to travel to his sister's home on nearly 300 occasions. The City alleges that these were not related to law enforcement. The City also alleges that a surveillance camera was set up on the private property and monitors were installed in the home at 38 Baremeadow. There was no evidence to contradict these allegations. Testimony was elicited which attempted to show that the 38 Baremeadow area was the site of criminal activity and that the surveillance camera was not unique to 38 Baremeadow. The exhibits and testimony do not support these assertions. The only instance remotely comparable to the surveillance camera established at 38 Baremeadow occurred in 1999. This was a camera set up in a business focusing on a house that was a hub of drug and gang activity in a high crime area.

Property checks at 38 Baremeadow Street by the Methuen Police Department were listed in the city exhibit #5. Nearly every entry in the thirty page report was for a property check. Attorney Gambaccini argued there was no evidence Solomon ordered or knew of the property checks or camera installation. The notion that a Chief, universally described as a twenty-four hour seven day a week employee, would not know of Police activity at 38 Baremeadow Street, the home of his sister, in my view is not credible. It is therefore my opinion the City has established just cause for the allegations contained in this component of Charge # 1.

Charge # 2 involves the relationship between the Methuen Police Department and a Marina owned by Chief Solomon's sister and brother-in-law. The evidence indicates that Chief Solomon was aware of the conflict of interest. Since 2000, the Methuen Police Department had maintained, stored and repaired its Marine equipment at the Merrimack Marine Supplies owned by Solomon's sister and brother-in-law. Solomon filed a disclosure of financial

interest as required by General Laws 268A, Section 19 on October 16, 2002. The Mayor at the time was Mayor Pollard. Upon the election of Mayor Manzi, it was Solomon's responsibility to file a Disclosure of Financial Interest Form with his office. The Mayor is the appointing official and the Disclosure of Financial Interest must be made to him. The expenditures at the Marina owned by Solomon's sister and brother-in-law were therefore inappropriate and violations of Mass General Laws Chapter 268A, and the Methuen Police Departments Rules and Regulations Section 4.02. Use of subordinates within the Police Department to approve Marine related expenditures does not cure these violations. It is therefore my opinion that the City has shown just cause exists to sustain allegations in Charge #2.

The allegations contained in Charge #3 duplicate allegations already considered which were contained in Charge #1.

Charge #5 relates to the so called Patriot's incident which occurred at approximately 8:40 p.m. on August 24, 2007. Solomon's version of the events differs markedly from testimony and affidavits of others. Solomon testified he was drawn to the Police Station by the unusual manner in which Police cruisers were parked outside. Upon his arrival, he found five officers in the Squad Room watching television. He was disappointed and upset that so many officers were at the Station and not patrolling the streets of Methuen. He sought answers from supervisors concerning responsibility for the presence of so many officers in the Squad Room. He asked that reports be written and left the station.

Testimony and affidavits from five Police Officers paint a different picture. The Chief emerges as profane, verbally abusive and out of control. Red faced and gesturing wildly, the Chief warned about lying in the reports he ordered. Solomon professed not to know that Sgt. Phillips was working on the evening of August 24th, or that his former brother-in-law had been subpoenaed to appear before a Grand Jury regarding a Criminal Investigation conducted by Sgt. Phillips. The following day, Sgt. Phillips, an employee of twenty-four years with an unblemished record, was placed on administrative leave. He had his badge and gun confiscated and was ordered to a fitness for duty evaluation. This action was ordered by Chief Solomon.

It is difficult to determine with a high degree of certainty the motives for Solomon's actions surrounding the Patriot's incident. However, his behavior appears to be a wild, over reaction to a relatively minor incident. According to Lt. Wnek, the presence of five officers in the Squad Room at any given time was not unusual. The Lt. testified several officers often would meet in the Squad Room to watch television, eat dinner, and prepare reports. In addition to Phillips being placed on administrative leave, Solomon recommended to Mayor Manzi that two police officers be terminated from their positions.

It is my opinion that the City has provided sufficient evidence to support its allegations concerning Methuen Police Department Rules and Regulations, Violations involving conduct unbecoming an officer. It is also my opinion that the most reasonable conclusion to be drawn from Solomon's behavior towards Sgt. Phillips directly relates to the Grand Jury Criminal Investigation, in which Phillips was involved.

The second portion of Charge # 5 relates to a later meeting held by Chief Solomon. Allegations by the City include threatening and profane speech directed towards the assembled officers purportedly to diffuse rumors concerning the Chief. There was no evidence of such profanity directed towards the assembled group. Nor was there any evidence that routine patrols were affected by the Chief's meeting. According to testimony, the meeting took place during a change of shift, when officers routinely would be in the station. It is therefore my opinion that the City has failed to sustain its burden related to the November 17, 2006 meeting.

Allegations brought by the City in Charge # 6 involve a purported meeting in the presence of Deputy Chief Alaimo, his father, the Chief, and a Methuen Police Detective. Three witnesses testified that the meeting in question never took place. Two witnesses who testified such meeting occurred offered inconsistent testimony concerning the individuals present at such a meeting. While the City alleged in its charges that the meeting occurred in June 2002, witnesses that testified to such a meeting placed it in the Spring 2003. I am unable to find with any degree of certainty the facts or substance regarding such a meeting and therefore am of the opinion that the City has failed to substantiate the allegations contained in Charge #6. I do not find Flanagan's testimony incredible on this or any other subject about which he was

questioned. I am simply unsure as to dates and participants to find that the city has met its burden.

Charge #7 involves allegations of improperly hiring outside legal counsel. Evidence contained in public hearings along with financial records from the City does not support the allegations in Charge #7. It may be true that some procedural violations took place, but the notion that Solomon secretly hired outside counsel in my view is incorrect. The Chief appeared at budget meetings and had line items in his budget for legal services. Additionally, payments were made to outside counsel after Solomon had been placed on administrative leave.

Allegations in Charge #8 involve mismanagement of Federal Funds. The most serious of these charges involves the inability of the Methuen Police Department to substantiate expenditures of more than \$170,000.00 from the Weed and Seed Grant. Reams of documents and hours of testimony were focused on the issues surrounding the Weed and Seed Grant. Specifically, allegations involved Methuen Police Departments Supervisors, including Solomon, receiving compensation for overtime with little supporting documentation to support funds paid.

The City of Methuen applied for Weed and Seed Program Funds commencing in 2001 and continuing through 2006. Joseph Solomon worked in preparing the initial application for the City of Methuen. He attended Weed and Seed training organized by the Office of Justice Programs. In October of 2006, the United States Department of Justice served a subpoena seeking documents related to the Weed and Seed Program. A series of telephone calls, and requests for additional documents, culminated in a March 29, 2007 meeting attended by Solomon and his private attorneys. Through no fault of his own, the City Solicitor was neither timely advised nor fully informed of the process. In fact, the March 29, 2007 meeting held by the Special Agent in charge of the Office of the Inspector General was scheduled without knowledge of the City Solicitor and held without his attendance.

In May and June of 2007, the City was notified by the United States Department of Justice of its failure to maintain required documentation in the Weed and Seed Program. Finally, by letter dated December 13, 2007, the United States Department of Justice, through its General Counsel, notified the City of Methuen it would be required to return approximately \$170,000.00 in unsupported expenditures.

What has emerged from evidence at the hearing was a system which was unreliable and could not provide assurance that hours entered into the Pro IV System were actually supported by hours worked. A key control was that a Supervisor would enter the time of individuals under their watch based on observation, review of schedules, calendars or other information. No individual was supposed to enter their own time. However, investigation revealed that Chief Solomon would enter his own time, and occasionally Deputy Chief Alaimo or others would enter Solomon's time. Deputy Chief Alaimo's time was entered occasionally by Solomon but also by the Deputy, Captain McCarthy or Levin. Captain McCarthy's time was entered almost exclusively by him. Sgt. Haveys time was entered by McCarthy, but also by Havey himself. Lt. Mahoney had time primarily entered by McCarthy, but occasionally by himself. Giarusso's time was entered by McCarthy, Havey and others. Additional investigation revealed that certain individuals were paid overtime when on vacation, sick or on personal leave.

Activity reports used by patrol officers provided sufficient source documentation to substantiate overtime payments. These activity reports were not required of supervisory personnel. Solomon attempted to justify the difference by drawing a distinction between management functions and tasks required of patrol officers. He was not persuasive. It is my opinion therefore, that the City has presented sufficient evidence to provide just cause for its allegations in Charge # 8 related to the mismanagement of the Weed and Seed Program.

The allegations in Charge # 8 related to the COPS Grant Program were the subject of a prior hearing and not appropriate for consideration in this matter.

The 3rd allegation regarding Ms. Giarusso is less clear. What was once a stipend paid to her subsequently became overtime. An apparent misreading of payroll records may also have led to an incorrect conclusion on the part of officials. Allegations of "triple dipping" in my view have not been substantiated by the City of Methuen as they relate to Ms. Giarusso.

Charge #9 incorporates many of the allegations contained in the prior charges. Additionally, there is contained in the City exhibits a resolution by the City Counsel of Methuen adopted May 21, 2007, effective June 20, 2007, which is an expression and declaration of no confidence regarding Chief Solomon. The notice of charges and contemplative action signed by William M. Manzi speaks volumes concerning his lack of confidence in the Chief.

CONCLUSION

Issues were raised during the course of this hearing which attempted to cast Joseph Solomon in the role as a victim. He asserted that placing an employee on administrative leave was not a form or punishment or discipline. So that when he placed Sgt. Phillips on administrative leave, and referred him to a fitness for duty evaluation, this in Solomon's view did not represent neither punishment nor discipline. However, when he was placed on administrative leave in September of 2007, in his view this represented a form of punishment.

Throughout the course of the hearing, Solomon failed to accept responsibility for any errors, mistakes, ethical lapses, or errors in judgment. He characterized the entire process as unfair, discriminatory, and hostile. He asserted that charges against him are a form of retaliation.

He made unsubstantiated claims of alleged political corruption. He suggests that he is being punished because he went to law enforcement agencies with these allegations. In my opinion, the claims by Solomon are repugnant and he has sought refuge by impugning the reputation of others. A person in Solomon's position must accept responsibility for what occurs in his department. He also failed in this regard.

Based upon the testimony and exhibits, it is my conclusion that the City of Methuen has provided just cause for termination. Accordingly, it is my recommendation to the appointing authority that Joseph Solomon be terminated forthwith from his position in the Methuen Police Department.