

**MEETING: THE ELEVENTH MEETING OF THE FIFTY-FOURTH THUNDER BAY  
POLICE SERVICES BOARD (CLOSED SESSION)**

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**DATE:** MAY 23, 2023

**TIME:** 11:20 A.M.

**PLACE:** VALHALLA HOTEL & CONFERENCE CENTRE  
1 Valhalla Inn Road, Thunder Bay, ON

**ADMINISTRATOR:** MR. M. MERCER

**PRESENT:**

Ms. D. Baxter  
Mayor K. Boshcoff  
Councillor S. Ch'ng  
Ms. K. Machado  
Mr. M. Mercer

**OFFICIALS:**

Mr. D. Fleury, Chief Designate of Police  
Mr. R. Hughes, Deputy Chief of Police  
Inspector G. Snyder, Thunder Bay Police Service  
Mr. J. Hannam, Secretary – Thunder Bay Police  
Services Board  
Ms. L. Douglas, Assistant to the Secretary - Thunder  
Bay Police Services Board

**ATTENDING BY ZOOM:**

Mr. T. Gervais, Ministry of the Solicitor General  
Mr. D. Jarvis, Filion Wakely Thorup Angeletti LLP

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1. DISCLOSURES OF INTEREST

There were no disclosures of interest declared at this time.

2. ORGANIZATION AND PERSONNEL

a) SIU Briefing

Prior to providing body camera footage from a November, 2022 occurrence involving Constable Dougherty, Inspector G. Snyder provided some context and responded to questions. The subject occurrence, whereby Constable Dougherty was accused of causing bodily harm (charges for a broken nose), did reach the threshold of SIU reporting, and accordingly, did reach the threshold of SIU reporting, and accordingly, the SIU invoked their mandate to investigate.

Inspector Snyder noted that the Police Service's Administration has not completed their own internal review, as they are waiting for the criminal investigation to be completed. The subject Officer is not obligated to provide a statement at this time, and is currently on administrative duty at the Police Service.

A brief overview of examples of occurrences that trigger the body cameras to go on was provided. If there are no triggers, the cameras have to be manually turned on.

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Video footage of the apprehension of John Semerling, after he departed the Thunder Bay Regional Hospital, was viewed by the Board. Video footage of the camera at the rear of the police cruiser was then viewed.

Administration will be reviewing this matter and investigating if there was excessive use of force and if discreditable conduct charges need to be laid.

Administrator M. Mercer noted that the role of the Board is limited at this point. Given the criminal charges, the Board will need to let those charges play out; however, it's important that this report and videos have now been received by the Board.

Administrator Mercer requested that, for the record, the Board be provided with a memo outlining the current facts about this matter.

Inspector Snyder was thanked for his presentation, and at 12:39 p.m. he left the meeting

### 3. DEPUTATION

#### TBPA Grievance – Use of Non-Bargaining Unit Members to Perform Bargaining Unit Work

Correspondence to Malcolm Mercer from Allison Scott, the Thunder Bay Police Association Grievance Chair, dated March 30, 2023, relative to notification of a grievance regarding the Police Service's use of a non-bargaining unit member to perform the duties of a Thunder Bay Police Association (TBPA) member, was provided for the Board's information.

Administrator M. Mercer thanked Mr. Woods for his co-operation with this matter. Mr. C. Woods, President of the Thunder Bay Police Association, presented an overview and responded to questions relative to the above noted grievance.

In response to questions, Mr. Woods did confirm that other members of the Association were called but were unable to fill that position for that shift; unionized members did refuse the work first. Administration then asked a member of the SOA (familiar with the subject position) to backfill the position for the safety of the community.

Mr. Woods noted that a similar incident happened subsequent to the subject incident. The Association doesn't want this to continue and it doesn't want similar incidents to open up in other areas of the Service. Administration needs to hire more people to avoid these types of incidents. He also noted it's not about the specific individual who did the job; it's about protecting the Association.

At 11:37 a.m., the deputation ended, Mr. Woods was thanked for attending, and he left the meeting. Ms. S. Vita, Human Resources Manager – Thunder Bay Police Service, entered the meeting.

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Mr. D. Jarvis, Filion Wakely Thorup Angeletti LLP, advised that the language in the collective agreement is not clear enough, and asked that this term be cleaned up in the next round of negotiations. He noted that Association members had the opportunity to fill the position first, and several members were approached but ultimately refused the work. Efforts were made by the Administration to contact every qualified member – but they all refused the work.

After some discussion, the Board concluded that the correct protocol was followed and, accordingly, denied the grievance. Mr. J. Hannam, Secretary to the Thunder Bay Police Services Board, will advise the Association.

#### 4. CONFIRMATION OF AGENDA

Two items were added under New Business: WSIB and Annual Leave and Unclaimed Funds.

MOVED BY: Mr. M. Mercer

With respect to the Eleventh Session (Closed) of the Fifty-Fourth Thunder Bay Police Services Board held on May 23, 2023, we recommend that the agenda as printed, including any additional information and new business, be confirmed.

CARRIED by the Administrator

#### 5. CONFIRMATION OF MINUTES

The Minutes of the Ninth Session (Closed) of the Fifty-Fourth Thunder Bay Police Services Board held on April 18, 2023, to be confirmed.

MOVED BY: Mr. M. Mercer

Minutes of the Ninth Session (Closed) of the Fifty-Fourth Thunder Bay Police Services Board, held on April 18, 2023 be confirmed.

CARRIED by the Administrator

#### 6. ORGANIZATION AND PERSONNEL, *continued*

##### b) Parental and Maternity Leave Requests

The following correspondence was provided for the Board's information:

- 1) Correspondence to Interim Chief D. Taddeo from civilian member, James Porobic, dated April 18, 2023, relative to a request for parental leave, as well as a response to CM J. Porobic from Interim Chief of Police Daniel M. Taddeo, dated April 24, 2023.

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- 2) Correspondence to Chief Darcy Fleury from civilian member, Leah Turpin, dated April 27, 2023, relative to a request for maternity leave, as well as a response to CM L. Turpin from Interim Chief of Police Daniel M. Taddeo, dated April 28, 2023.
- 3) Correspondence to Interim Chief D. Taddeo from Detective Constable Brenna Pugh, dated April 28, 2023, relative to a request for maternity leave, as well as a response to Detective Constable Pugh from Interim Chief of Police Daniel M. Taddeo, dated May 8, 2023.
- 4) Correspondence to Interim Chief D. Taddeo and Chief Designate Fleury from Detective Constable David Moore, dated April 30, 2023, relative to a request for parental leave, as well as a response to Constable Moore from Interim Chief of Police Daniel M. Taddeo, dated May 2, 2023.
- 5) Correspondence to Interim Chief D. Taddeo from Constable Alex Scaffeo, dated April 30, 2023, relative to a request for parental leave, as well as a response to Constable Scaffeo from Interim Chief of Police Daniel M. Taddeo, dated May 2, 2023.
- 6) Correspondence to Interim Chief D. Taddeo from Constable Mitchell Johnstone, dated May 6, 2023, relative to a request for parental leave, as well as a response to Constable Johnstone from Interim Chief of Police Daniel M. Taddeo, dated May 8, 2023.
- 7) Correspondence to Interim Chief D. Taddeo from Constable Travis Krueger, dated May 4, 2023, relative to a request for parental leave, as well as a response to Constable Krueger from Interim Chief of Police Daniel M. Taddeo, dated May 8, 2023.

### 7. UPDATES FROM LEGAL COUNSEL

Mr. D. Jarvis, Filion Wakely Thorup Angeletti LLP, reported as follows:

- HRTO applications – Mr. Jarvis is representing the Board in nine (9) outstanding HRTO applications. Two (2) were recently received, and responses are being prepared. All applications are waiting for processing and movement by the Human Rights Tribunal.
- A conciliation meeting regarding the TB Police Association's grievance on annual pay upon retirement has been scheduled for June 27, 2023.
- Two arbitration meetings have been scheduled for July 25, 2023 and October 26, 2023 for Zappitelli.
- The matters surrounding WSIB and Annual Leave (Annual Leave vs Sick Leave) will try to be resolved next week. This includes tax complications, WSIB tax documents and T4s issued by the Service.
- A Coroner's inquest for Oruitemeka is being scheduled for later this year.

### 8. GENERAL MATTERS

#### a) Memorandum – Summary of Approvals by Administrator

Confidential Memorandum to Members of the Thunder Bay Police Services Board from Mr. J. Hannam, Secretary to the Board, dated May 17, 2023, relative to a summary of approvals made

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by Administrator Malcolm Mercer since the April 18, 2023 Closed Session, was provided for the Board's information.

b) Accounts Update – Approval for Payment of Invoices

Confidential Memorandum from John S. Hannam, Secretary to the Board, to Members of the Thunder Bay Police Services Board, dated May 17, 2023, relative to the invoices processed for payment since the April 18, 2023 Closed Session, was provided for the Board's information.

Councillor S. Ch'ng expressed concerns about expenses, and if they were budgeted for. For the next meeting, Mr. J. Hannam will provide financial reporting with the intent to devise more effective financial information provided to the Board.

9. LABOUR RELATIONS

Confidential Memorandum to Members of the Thunder Bay Police Services Board from John S. Hannam, dated May 16, 2023, relative to an appointment to the Labour Relations Committee, was provided for the Board's information.

Mr. J. Hannam provided an overview relative to the above noted.

MOVED BY: Mr. M. Mercer

With respect to the composition of the Labour Relations Committee we recommend that the Thunder Bay Police Services Board appoint Jim Gilbert to the Committee, as a community representative, for a term of 4 years.

CARRIED by the Administrator

10. NEW BUSINESS

a) WSIB and Annual Leave

Ms. S. Vita, Human Resources Manager – Thunder Bay Police Service, provided an overview of the matter at hand and responded to questions; she noted that the grievance is very complicated. The City of Thunder Bay has advised that they will be paying for those outstanding benefits.

Administrator M. Mercer also provided an overview, and noted that this matter is complicated when a member is off on sick leave and not working towards accumulating vacation pay.

Ms. Vita provided an explanation for the “no more/no less” language in the Collective Agreement, and noted that this language needs to be addressed in the next round of collective agreement negotiations.

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Administrator Mercer advised that the Board should agree to pay out the loss of earning, which could amount to as much as \$300,000. He noted that he may have to enter into an agreement before the next meeting. Further meetings to be held on this matter.

At 1:10 p.m., Mayor K. Boshcoff left the meeting. At 1:14 p.m., Deputy Chief R. Hughes and Ms. S. Vita left the meeting.

### b) Unclaimed Funds

Report No. 20/23 (Police) – Unclaimed Funds, was distributed separately by email to the Board on May 18, 2023. Mr. J. Hannam provided an overview of his concerns about the recommendation in Report No. 20/23 (Police). He provided an overview of the intent of the legislation on unclaimed funds.

Administrator Mercer advised that the Board needs to develop a policy on how these monies are used.

Councillor S. Ch'ng suggested that a certain amount of the funds be set aside for the City's Community Cultural Youth Grants, and for organizations that apply to the City for funding, but don't necessarily end up fitting in to their criteria.

Chief D. Fleury will review the subject report and revise it for the next meeting.

## 11. ORGANIZATION AND PERSONNEL, *continued*

### c) Performance Goals for Chief of Police D. Fleury

Pursuant to the Employment Agreement between Darcy Fleury and the Thunder Bay Police Services Board – Article 1 – Employment Compensation and Benefit/Performance Bonus, the Board will discuss and set the goals and objectives for six (6) month intervals during the first three (3) years of the agreement.

Pursuant to Performance Bonus Term 4.7, “the parties agree that the Performance goals for the first two six (6) month intervals (of the first year of the Term) will be mutually agreed upon by the parties, in writing, no later than June 30, 2023.”

Mr. J. Hannam, Secretary to the Thunder Bay Police Services Board, cited the email he had sent to the Board relative to the above noted. Chief Fleury prepared an itemized list of his priorities under the various objectives.

Administrator Mercer advised that the next step for Chief Fleury is to seek input from his senior officers and to come back to the Board with those perspectives.

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Chief D. Fleury advised that he would like to see 2 or 3 initiatives at a time. He also advised that he needs to review what he needs for an organizational structure; with several pending retirements, he needs to determine if external recruiting is required.

Member D. Baxter noted that the performance objectives are also based on the Board's Strategic Plan (which needs to be updated this year). Performance objectives need to move the Strategic Plan forward.

### 12. TRACKING OUTSTANDING MATTERS

- Response to Jury Recommendations RE: Mamakwa/McKay Inquest due by **July 9, 2023**.
- Request for Appointment of a Conciliation Officer - Firth
- Ogima Complaint
- Oruitemeka Inquest
- Response to TBPA Grievance RE: Greenshield Benefits
- Updates/revisions to the Strategic Plan

### 13. CONFIRMING BY-LAW

MOVED BY: Mr. M. Mercer

THAT the following By-law be introduced, read, dealt with individually, engrossed, signed by the Administrator and Secretary of the Thunder Bay Police Services Board, sealed and numbered:

1. A By-law to confirm the proceedings of a Closed Session of The Thunder Bay Police Services Board, this 23<sup>rd</sup> day of May, 2023.

Explanation: Confirmation of the proceedings and each motion, resolution and other action passed or taken by the Thunder Bay Police Services Board at this meeting is required, adopted, ratified and confirmed as if all such proceedings had been expressly embodied in this By-law.

BY-LAW NUMBER: PC13 – 2023

CARRIED by the Administrator

### 14. ADJOURNMENT

The meeting adjourned at 1:45 p.m.