

MEETING: THE EIGHTH SESSION OF THE FIFTY-FIFTH THUNDER BAY POLICE SERVICES BOARD (CLOSED SESSION)

DATE: MARCH 19, 2024

TIME: 9:00 A.M.

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

CHAIR: MS. K. MACHADO

PRESENT:

Mr. W. Bahlheda
Mayor K. Boshcoff
Councillor K. Etrene
Ms. K. Machado
Mr. M. Mercer, Administrator

ATTENDING BY ZOOM:

Ms. D. Baxter
Mr. T. Gervais, Ministry of the Solicitor
General

OFFICIALS:

Mr. D. Fleury, Chief of Police
Mr. R. Hughes, Deputy Chief of Police
Detective Inspector J. Pearson, 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

1. DISCLOSURES OF INTEREST

There were no disclosures of interest declared at this time.

2. CONFIRMATION OF AGENDA

Under New Business, an indemnification request from Staff Sgt. M. Dimini was added. Under HRTO Applications and Retainers, retaining legal counsel for an additional matter was added.

MOVED BY: Councillor K. Etrene

SECONDED BY: Mayor K. Boshcoff

With respect to the Eighth Session (Closed) of the Fifty-Fifth Thunder Bay Police Services Board held on March 19, 2024, we recommend that the agenda as printed, including any additional information and new business, be confirmed.

CARRIED

3. CONFIRMATION OF MINUTES

Minutes of the Sixth Session (Closed) of the Fifty-Fifth Thunder Bay Police Services Board held on February 20, 2024, to be confirmed.

MOVED BY: Councillor K. Etrene

SECONDED BY: Mr. W. Bahlheda

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Minutes of the Sixth Session (Closed) of the Fifty-Fifth Thunder Bay Police Services Board held on February 20, 2024, be confirmed.

CARRIED

4. UPDATES FROM LEGAL COUNSEL

No updates were given at this time.

5. REPORTS OF THE THUNDER BAY POLICE SERVICE

a) Firearm Data Submission Report

Confidential Report No. 11/24 (Police) relative to reporting a listing of firearms that came into the possession of the Thunder Bay Police Service in 2023, was for the Board's information.

Chief of Police D. Fleury provided an overview relative to the above noted. A brief discussion followed as to why this report was being presented in Closed Session. It was the consensus of the Board to present this report in Regular Session following Closed Session, and in Regular Session going forward.

b) Annual Intelligence Unit Report: Community Threats

Detective Inspector J. Pearson, Thunder Bay Police Service, provided a PowerPoint presentation of the above noted report and responded to questions.

It was noted that the Director of Communications for the Police Service be more proactive in communicating to the public about the harms of the drugs found in the subject drug investigations.

A discussion was held about the majority of pathology testing that takes place in Toronto and the lobbying/advocacy that is taking place for local pathology services.

Detective Inspector Pearson noted that investigations for homicides, attempted homicides and suspicious deaths are all similarly resource intensive. The only difference in these types of investigations is end result.

6. ORGANIZATION AND PERSONNEL

a) Extension Application – Constable Rob Main

Confidential Memorandum to the Chair and Members - Thunder Bay Police Services Board from Darcy Fleury, Chief of Police, dated March 11, 2024, and the Report to the Thunder Bay Police

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Services Board from Chief Darcy Fleury, dated February 20, 2024, relative to an Extension Application under the *Police Services Act*, was provided for the Board's information.

MOVED BY: Mr. W. Bahlieda
SECONDED BY: Councillor K. Etreni

It is recommended that the Thunder Bay Police Services Board receives for processing and decision the Application for Extension of the six-month period for the service of a Notice of Hearing against Constable Robert (Rob) Main regarding allegations of misconduct under Part V of the *Police Services Act*, R.S.O. 1990 C.P.15, as amended ("the Act");

AND THAT the extension of time to serve a Notice of Hearing on Constable Robert Main be approved, as presented at the March 19, 2024 Closed Session of the Board.

Correspondence from Constable R. Main requesting more time to respond was distributed separately by email on March 18, 2024.

Mr. J. Hannam provided an update on this matter as it relates to timelines, and advised that there be no further discussion at this time. He requested that this matter be deferred, as per the advice of legal counsel, to allow Constable Main more time to respond.

MOVED BY: Mr. W. Bahlieda
SECONDED BY: Councillor K. Etreni

With regard to the Application for Extension of the six-month period for the service of a Notice of Hearing against Constable Robert (Rob) Main, and the request from Chief D. Fleury to approve an extension to the time to serve a Notice of Hearing on Constable Robert Main;

AND the request from Constable Robert Main for more time to respond to the Notice of Hearing, we recommend that the request from Chief D. Fleury be deferred to the April 23, 2024 Regular Session of the Board.

CARRIED

- b) HRTO Applications and Retainers
 - i. Retired Constable Kelly Walsh

Confidential Memorandum to the Thunder Bay Police Services Board from John S. Hannam, dated March 13, 2024, relative to retaining counsel on an HRTO complaint, was provided for the Board's information.

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Mr. J. Hannam provided an overview relative to the above noted, and noted that legal counsel has advised that these motions should be presented on a case by case basis. Administrator M. Mercer provided an overview of retired Constable Walsh's applications and reprisals.

Chief D. Fleury advised that it's important to note that these are historic complaints and that the work culture has improved at the Police Service. He also noted that he has reviewed all of HRTO applications and reprisals.

MOVED BY: Councillor K. Etreni

SECONDED BY: Mayor K. Boshcoff

With respect to HRTO file #2023-52494, filed by retired Cst. Kelly Walsh, we recommend that the Thunder Bay Police Services Board retain Weir Foulds LLP to represent and respond to this HRTO Application on behalf of the Board;

AND THAT the Board acknowledges that Kelsey Ivory of Weir Foulds LLP will be counsel of record on this file;

AND THAT Weir Foulds be similarly retained on any further HRTO applications made by Cst. Kelly Walsh in which the Board is a named respondent;

AND THAT the Board acknowledges that the City Solicitor will continue to provide instruction to, and manage the retainer of, Weir Foulds LLP with respect to the HRTO Application.

CARRIED

ii. Constable Kerry Dunning

Additional information was distributed separately by email to Board members on March 18, 2024, relative to presenting a motion for consideration to retain counsel on an HRTO application filed by Constable Kerry Dunning.

Mr. J. Hannam, Secretary, provided an overview of the matter, as well as the current status of Mr. R. Anand, who is now in private practice but continues to work with Weir Foulds on certain HRTO applications. Mr. Hannam further noted that the Board has not yet been properly served on this application by HRTO.

MOVED BY: Councillor K. Etreni

SECONDED BY: Mayor K. Boshcoff

With respect to the application filed with the Human Rights Tribunal of Ontario by Kerry Dunning (HRTO File Nos. 2023-52935), wherein the Thunder Bay Police Services Board

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is a named Organization Respondent, we recommend that the Board retain WeirFoulds LLP to represent and respond to this HRTO Application on behalf of the Board;

AND THAT the Board acknowledges that Mr. Raj Anand, formerly of WeirFoulds LLP, is also named as a respondent to HRTO file 2023-52496 (Dunning) and others, and is counsel to the Board on certain HRTO Applications, and that Kelsey Ivory of WeirFoulds LLP will be counsel of record on this file.

AND THAT the Board acknowledges that the City Solicitor will continue to provide instruction to, and manage the retainer of, WeirFoulds LLP with respect to the HRTO Applications.

CARRIED

Mayor K. Boshcoff left the meeting at 9:54 a.m.

c) Grievances of Allison Scott

Memorandum of Settlement (MOS) between the Thunder Bay Police Services Board and the Thunder Bay Police Association and Allison Scott, subject to review and approval of the Police Services Board.

MOVED BY: Councillor K. Etreni

SECONDED BY: Mr. W. Bahlieda

With respect to the Memorandum of Settlement between the Thunder Bay Police Services Board and the Thunder Bay Police Association and Allison Scott, as presented at the March 19, 2024 Closed Session of the Board, we approve the terms set out in the Memorandum of Settlement and authorize the Chair of the Thunder Bay Police Services Board to duly execute the subject Memorandum of Settlement.

Chief D. Fleury and Administrator M. Mercer provided a high level overview relative to the above noted. Administrator Mercer noted that it's a rationale settlement based on the facts around this case.

Term #7 of the MOS was discussed at length, with concerns about setting a precedent.

Amending Motion

MOVED BY: Mr. W Bahlieda

SECONDED BY: Councillor K. Etreni

With respect to the proposed Memorandum of Settlement, we recommend that the following phrase be inserted following 'we approve the terms set out in the Memorandum

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of Settlement’: subject to Legal Counsel working to limit Article #7 to the extent possible while still achieving settlement.

CARRIED

Amended Motion

MOVED BY: Councillor K. Etreni
SECONDED BY: Mr. W. Bahlieda

With respect to the Memorandum of Settlement between the Thunder Bay Police Services Board and the Thunder Bay Police Association and Allison Scott, as presented at the March 19, 2024 Closed Session of the Board, we approve the terms set out in the Memorandum of Settlement, subject to Legal Counsel working to limit Article #7 to the extent possible while still achieving settlement, and authorize the Chair of the Thunder Bay Police Services Board to duly execute the subject Memorandum of Settlement.

CARRIED

d) Update on the 2nd Deputy Chief of Police Position

Mr. J. Hannam provided an update on the search for the new Deputy Chief of Police – Administration position. Recruitment is underway, and the Governance Committee will meet with the recruiters in early April, 2024. He noted that the job has been posted internally and externally.

7. LABOUR RELATIONS

Mr. W. Bahlieda, Chair – Labour Relations Committee, reported that the Committee has met several times to discuss and identify the issues that need to be negotiated. Negotiation meetings with the Association have been arranged, starting the last week of March, 2024.

8. PETITIONS AND COMMUNICATIONS

Statement of Claim - Samuels

Confidential memorandum to the Thunder Bay Police Services Board from John S. Hannam, Secretary, dated March 6, 2024 relative to an indemnity request, was provided for the Board’s information.

Mr. J. Hannam, Secretary, advised that the memorandum has been provided for information purposes only. This is a civil action, and the Board and/or City of Thunder Bay will indemnify any named members of the Board and Service.

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9. NEW BUSINESS

a) Request for Indemnification – Staff Sgt. M. Dimini

Confidential Memorandum to the Thunder Bay Police Services Board from John S. Hannam, Secretary, dated March 18, 2024, relative to a request for indemnification of legal costs from Staff Sgt. M. Dimini.

Mr. J. Hannam provided an overview of the memorandum and responded to questions. Administrator M. Mercer suggested that the Board indemnify Staff Sgt. Dimini on a conditional basis in the event that the indemnification has to be withdrawn.

MOVED BY: Mr. W. Bahlieda
SECONDED BY: Councillor K. Etreni

With respect to the request from S. Sgt. M. Dimini for indemnification of legal costs in defense of being a named respondent to HRTO applications 2023-52496-I (Dunning), 2023-54045-I (Ogima) and 2023-52494-I (Walsh) we recommend that the Thunder Bay Police Services Board indemnify S. Sgt. Dimini in accordance with Article 25.04 (b) of the Uniform Collective Agreement with the Thunder Bay Police Association.

Amending Motion

MOVED BY: Mr. W. Bahlieda
SECONDED BY: Councillor K. Etreni

THAT the motion be amended by inserting the word ‘conditionally’ between Services Board and indemnify;

AND THAT the following phrase be added: AND THAT Mr. Don Jarvis be asked to assist in preparing responding communication to S. Sgt Dimini.

CARRIED

Amended Motion

MOVED BY: Mr. W. Bahlieda
SECONDED BY: Councillor K. Etreni

With respect to the request from S. Sgt. M. Dimini for indemnification of legal costs in defense of being a named respondent to HRTO applications 2023-52496-I (Dunning), 2023-54045-I (Ogima) and 2023-52494-I (Walsh) we recommend that the Thunder Bay Police Services Board conditionally indemnify S. Sgt. Dimini in accordance with Article 25.04 (b) of the Uniform Collective Agreement with the Thunder Bay Police Association;

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AND THAT Mr. Don Jarvis be asked to assist in preparing responding communication to S. Sgt. Dimini.

CARRIED

b) Administrator Appointment

Administrator M. Mercer advised that his appointment, which was to end on March 31, 2024, will be extended to April 30, 2024, in order to facilitate an orderly wind down of his tenure with the Board.

c) Notice of Passing Away

Ms. D. Baxter advised the Board that Grand Chief Alvin Fiddler's mother, Eunice Fiddler, had passed away.

10. TRACKING OUTSTANDING MATTERS - None

11. CONFIRMING BY-LAW

MOVED BY: Mr. W. Bahlieda
SECONDED BY: Councillor K. Etreni

THAT the following By-law be introduced, read, dealt with individually, engrossed, signed by the Chair 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 19th day of March, 2024.

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: PC7-2024

CARRIED

12. ADJOURNMENT

The meeting adjourned at 10:30 a.m.