

**BEAVER VALLEY REGIONAL POLICE DEPARTMENT
MANAGING COMMISSION**

Regular Meeting - Thursday, August 8, 2024

1. **Call to Order, Pledge of Allegiance** – Meeting called to order at 6:00 PM by Vice-Chairman, Michael Stuban
2. **Roll Call**

Baden Borough -	Judi Montell, Michael Stuban
Conway Borough -	Mark Hertnecky, Tim Antoline, Patty Then
Freedom Borough -	Kim Farrow, Nadine Padezanin
Rochester Township -	Mike Lucci, Steven Anthony

Also, present – Police Chief, Adam Johnston

3. **Solicitor Comments** - regarding a vote taken the previous months 7.11.24 meeting

Solicitor David Mitchell stated that the vote taken at the July meeting regarding a retirement incentive for the police chief was not legal. The Pennsylvania State Sunshine Law changed about one year ago (referenced commonwealth court case Coleman vs. Parkland School District). The law changed stating that motions have to be on the agenda and in advance of the meeting or fall under a handful of very narrow exceptions such as a true emergency. The remedy for the motion not being on the agenda last month needed to be on the agenda (posted 24 hours in advance) and be reconsidered for motion at this meeting.

Mr. Mitchell stated that because this relates to a personnel matter, he recommended that the discussion take place in an executive session. Michael Stuban questioned the solicitor stating that since this is spending of public money should the public have the right to hear what is going on? Mr. Mitchell stated that there is a provision for public comment and if people want to comment on this motion, it makes sense to have them comment before the vote is taken.

Michael Stuban asked for a motion to go into executive session.

Motion by Judi Montell, second by Steven Anthony, carried unanimously to go into executive session regarding personnel at 6:11PM.

(Visitors left the meeting room and returned prior to the motion to return to session)

Motion by Judi Montell, second by Mike Lucci, carried unanimously to return to session at 6:32PM.

4. **Chief Adam Johnston Retirement**

Michael Stuban stated that the next item on the agenda was to re-approve/re-validate authorizing a payroll adjustment of \$91,300 for Chief Adam Johnston to be paid over the remaining 2024 pay periods.

Michael Stuban noted that when this information was presented to Baden Borough Council, a letter was sent from Baden Council president to the regional police department. He asked Elaine Rakovan to read the letter aloud. (letter attached)

Michael Stuban asked if there was any public comment regarding the vote that was being considered.

Joe Bosh, Baden Borough Councilmember stated that he is speaking to the commission as a concerned citizen and taxpayer. His understanding is that this is a \$91,000 payment to increase the defined retirement benefit for the police chief. It is a payment that goes beyond the contracted wages, compensation, and any other benefits as an employee of the Beaver Valley Regional Police Department. Joe Bosh referenced the additional pension cost of approximately \$25,000 per year added on to the minimum municipal obligation (MMO) for 15 years, as well as paying this amount would raise the concerns of the Pennsylvania Auditor General with audit findings. He stated that he has heard great things about Chief Johnston and he has no doubts that he is a great officer and chief, however the chief worked for the Conway Police Department for the overwhelmingly majority of his career and has only been the chief of the regional department of a little over one year. If the motion is made to give the chief his requested \$91,000, Joe Bosh stated that the cost should be divided appropriately between the communities where the police chief did the majority of his service. If 95% of his career was in Conway Borough, then Conway should pick up 95% of the payment. Joe Bosh's second concern was voting on a large expense that was not budgeted for or approved by the participating municipalities. He stated that nothing should be taken away regarding benefits and compensation that Chief Johnston earned across his career but asked for justification as to why the board is considering to pay an additional \$91,000 and incurring a significant financial obligation on top of that for a very long period of time, especially because of the precedence it sets for future chiefs. If there is extra money and room in the budget there are many other areas where the money may be spent, such as hiring a full-time administrator, or giving money back to the communities. Joe Bosh concluded that this does not seem like a reasonable use of

funds and asked the commission to reconsider, especially in light of knowing how much this is going to cost the regional police department.

John Shelkons, Baden Councilmember and alternate BVRPD Commissioner, questioned how much is this (\$91,300 payment to the chief) going to cost and where is the money coming from? Michael Stuban stated that the extra pension cost is estimated to be over \$600,000. The estimated savings cost with the retirement has one figure that Michael Stuban has questioned in executive session and requested more information to try and get an actual cost.

Joe Bosh stated that he is struggling to understand how paying someone \$91,000 and having an additional obligation to the pension plan of \$600,000 can conceivably save money.

Michael Stuban answered the second part of John Shelkons question stating that the annual additional cost would be borne by each community and placed in next years budget which will be submitted to each borough and township to pay their share with taxpayer's monies.

Becky Gallagher, Baden Councilmember, but attending the meeting as a taxpayer and resident of Baden Borough asked if the additional cost would be divided amongst the municipalities equally or would Conway bear more of the cost. Michael Stuban noted that the cost would be divided by the formula that was devised by the commission based upon population, assessed value and miles of roadway. It would be whatever the current percentage breakdown is by municipality. Becky Gallagher stated that would mean that Baden would pay the highest amount with Rochester Township paying the second highest amount followed by Conway and Freedom. She stated that this does not seem fair, and it will set a precedent for the next chief. Becky Gallagher spoke with an attorney at the Pennsylvania Borough's Association seminar and the attorney stated that this action would be spiking the pension and cause issues with the auditor general. Michael Stuban stated that during the executive session the solicitor (David Mitchell) made the same statement.

Sasha DiCicco, resident of Baden Borough stated that \$91,000 of taxpayer's dollars is a lot of money and the residents should have been informed (through advertisement) about this going to vote before the board (commission). She also noted that the regional would be paying a new chief's salary, plus the retired chief's incentive payment for his retirement. Sasha DiCicco asked where the savings is. Michael Stuban stated that he was giving the information the chairman (Scott Levenson) presented.

John Shelkons understood that there are some financial numbers that are unclear still. He asked if the commission feels they should be voting on this matter tonight

or do they feel there is enough factual information to take a vote. Michael Stuban stated that he cannot speak on behalf of the commission, but he personally felt there was not enough financial information.

Becky Gallagher commented that from a Baden council perspective we need to be good stewards of the taxpayer money. She felt that without a clear picture of what the cost would be and hearing that this could cost half a mill in taxes to the (Baden) residents, a discussion should not be made until there are hard figures to look at.

Dawn Singleton, Baden councilmember and alternate BVRPD commissioner asked if each municipality is prepared and able to pay the increase that the incentive pay would cause. Michael Stuban stated that he cannot speak on behalf of the communities. He explained that under the municipal agreement each municipality will receive a copy of the proposed budget which each municipality must agree to. The budget will show what each municipality will have to pay for the budget year. If one of the municipalities does not approve the budget, then it goes back to the commission for budget revisions and cuts if necessary. Dawn Singleton asked how you can vote on this if it was not budgeted. Michael Stuban stated that he did not have an answer.

(Nadine Padezanin joined the commission board at 6:50 PM)

Joe Bosh commented that the commission is voting to spend money that hasn't been budgeted. He asked if the plan was to put this \$91,300 in as a budgeted item for next year but pay it out this year, thus making the additional \$91,300 retroactive. Joe Bosh asked if the bylaws or agreement addresses measures for non-budgeted items being approved by the participating government first. Michael Stuban stated that he did not know, and he did not have a copy on hand to check.

Becky Gallagher stated that she attended the regionalizing of police discussion meetings prior to regionalization. At that time, she was against regionalization, but since that time she now feels that the regional police department is doing an extraordinary job, and she thanked Chief Johnston. She felt that since there are so many unknown variables regarding this incentive request it really looks bad on all of the communities involved in the regional police force. We want other municipalities to join us. We want to be the gold standard for a regional police department. Becky Gallagher stated that it is going to be a hard discussion with Baden taxpayers regarding what has and may transpire.

Joe Bosh stated that if math doesn't support it, we can't defend it.

Michael Stuban asked if there were any other public comments.

Michael Stuban stated that the question before the board is what they want to do regarding to re-approve/re-validate authorizing a payroll adjustment of \$91,300 for Chief Adam Johnston to be paid over the remaining 2024 pay periods. Michael Stuban asked if there were any motions to be made. There were no comments, Michael Stuban stated that there is no motion, and he moved on to the next agenda item.

Chief Johnston asked the solicitor to please take the offer off the table. Solicitor David Mitchell stated that Chief Johnston can drop his request. Chief Johnston thanked the commission for their consideration.

5. **Meeting minutes** - Motion to approve: 6.13.2024 + 7.11.2024

Motion by Judi Montel, second by Nadine Padezanin, carried unanimously to approve the minutes.

- a. Outstanding: 9.14.2023 + 1.11.2024 - Michael Stuban asked that these minutes be available for approval at next months meeting.

6. **Administrator's Report** (attached)

- a. Finance Review - 2024 YTD Budget Report

- b. Bills

Motion by Kim Farrow, second by Judi Montell, carried unanimously to approve the bills as presented.

- c. Pension

Motion by Patty Then, second by Judi Montell, carried unanimously to have the merged pension plan for the BVRPD to remain in the Balanced Account with the PSABMRT.

Elaine Rakovan explained that Baden and Conway had the same pension plan, Rochester Township did not. This motion consolidates the plans.

- d. PMRS Letter

Motion by Judi Montell, second by Patty Then to have the solicitor send the pension cost study to PMRS so that they may transfer from the Rochester Township Police Pension Plan \$665,426 to the Beaver Valley Regional Police Pension Plan.

Elaine Rakovan stated that the blending of the pension plans is a unique situation that the Pennsylvania Auditor General has guidelines and rules on to manage so the regional pension is being looked at by the Auditor General to direct the proper management and consolidation of the plans. The pension company is waiting for the Auditor General to address the pension State Aid and Minimum Municipal Obligation (MMO). Although we do not know the number at this time the regional will have to budget monies for the pension that is not covered by State Aid. The BVRPD became an entity midway in the year and State Aid falls under the calendar year so there is State Aid going to Baden and Conway for 2024 and 2025, but all of that State Aid will be deposited into the regional police department pension plan. Elaine Rakovan stated that until the auditor general gives direction to the pension company we do not know how much the regional will have to put into the pension plan and/or if the individual municipalities (Baden and Conway) will have to budget additional funding. It makes more sense that the regional covers the full balance since the officers were all working for the BVRPD in 2024, but we will not know until the Auditor General tells us what needs to be done. She was hoping to have the information this evening, but the pension company is still waiting for a response from the Auditor General. Elaine Rakovan stated to check your emails for updates and she noted that the draft of the 2023 audit was emailed to everyone for review.

7. Chief's Report (Adam Johnston)

a. Monthly Call Report (+ YTD)

- i. See website: <https://bvrpd-pa.gov/monthly-crime-statistics>
 - 454 calls for service
 - 10 criminal arrests
 - 54 incidents non traffic
 - 35 traffic citations

b. New Business

- K-9 Fundraiser is going well
- Consideration of a future cadet in the police academy
- Two new police vehicles will be delivered by the end of August.
- Evidence room wall was built. Waiting on the door.
- Community Involvement - Pops with Cops hosted by the Little Bull Dogs, movie night in Freedom Borough
- Marathon burglary took place in Rochester Township. It ended up being an employee who was breaking into the store overnight.
- Drive by shooting is being investigated.
- Warrant for suspect in an indecent assault in Freedom was found in Fredrick Maryland. The local police had a shoot out with the suspect. Shot multiple times and currently in jail waiting to be extradited back. BVRPD may go to Maryland to bring the suspect back.

- c. Chief Johnston addressed the Crown Car Wash agreement and miscommunication regarding an invoice that was paid for having the cars full detailed. Chief Johnston commented that he felt that Scott Levenson thought it was the regular car wash bill. Elaine Rakovan explained that when she got the bill (quote), she emailed it to Chief Johnston (who was off at the time) and Scott Levenson, who responded to the email that it looks fine. Elaine Rakovan took it as confirmation to pay. After speaking with the owner of Crown Car Wash, Chief Johnston stated that Crown Car Wash agreed to apply the \$1,786 towards the next car wash invoice and apply the balance to having a few police cars detailed.

Motion by Judi Montell, second by Kim Farrow, carried unanimously to approve the Crown Car Wash agreement as presented by Chief Johnston.

8. Solicitor's Report

David Mitchell addressed the Freedom Area School District issue. He stated that Chief Johnston supplied excellent examples where the Sewickley Township police officers have gone into Freedom Borough territory and exercised law enforcement. The solicitor for Freedom Area School District told David Mitchell that the officers are not going over the borough line, but after being presented the examples with details helped move things forward with Freedom's solicitor. Freedom asked if we knew exactly where the borough line is located. Looking on Google Map, most of the middle school building is in Freedom Borough. The solicitor for the school district came back with a county map that showed the opposite (most of the building being in New Sewickley Township). This shows a discrepancy of a few hundred feet. David Mitchell does not believe that what school district sent was the accurate boundary. He stated that it would be very helpful to get documentation that shows the exact boundary running through the actual building. David Mitchell asked about the "To Do" list stating Beaver County District Attorney is weighing in on this issue. Chief Johnston commented that he did not hear it directly from the District Attorney but was told that the District Attorney will back what Lozier had started and commented on regarding this matter. Chief Johnston stated that he has been working at the football games since 1994 and he was always told that everything outside the stadium and on the road, the parking and a little piece of the gym was New Sewickley Township. There are at least three other police officers who work the football games, and they have all been told the same thing regarding what fell under Freedom and New Sewickley jurisdiction. Chief Johnston stated that what he just stated is accurate with Google Maps.

Chief Johnston stated that football games are starting soon. How can the school district have armed police officers in a football stadium that does not fall under their

jurisdiction. Chief Johnston expressed the importance of jurisdiction and referenced that Economy just lost a case last week for arresting a DUI in the BVRPD jurisdiction. If something happens at one of the football games where an officer out of their jurisdiction the liability is upon the BVRPD because we are letting this occur.

Michael Stuban gave a brief overview of what was going on with Freedom School District and police jurisdiction for the visitors in attendance.

David Mitchell asked if Freedom had a boundary map. Nadine Padezanin who is also the Mayor for Freedom thought that they could go to the county courthouse to get a copy of the boundary map. She also stated that there are maps in Freedom Borough that could be looked at. Chief Johnston commented on the importance of the jurisdiction lines when working a football game and he stated that the school district always wanted Conway, Freedom, New Sewickley there so that they can over any jurisdictional issue with an arrest.

David Mitchell asked Freedom Borough to supply him with whatever information they have or can get regarding their municipal boundary lines.

Michael Stuban asked the commission if there were any objections to having the solicitor attend all future commissioner meetings. Kim Farrow asked if there were any fees having the solicitor attend the meetings. Michael Stuban stated that there is money budgeted for the solicitor, but some of the things we are doing should not be done and we are finding out after the fact. He commented that actually all of our meetings were not legal in that motions were not on the agenda and posted 24 hours in advance in accordance with the law. Michael Stuban stated that he would be more comfortable with having the solicitor present at the meetings for legal guidance and prevent a liability issue.

Mike Lucci asked David Mitchell if a roll call was needed to add the solicitor to attend the meetings. David Mitchell stated that he does not know what is budgeted. Michael Stuban commented that a motion cannot be made because it wasn't advertised, but one of the duties of the solicitor is to attend the meetings.

9. Review "To Do" List

- a. Grants – Michael Stuban noted that Scott Levenson did speak to the grant writer in July and there will be an update in September.
- b. SRO for Freedom School District – already discussed
- c. Evidence Room – Chief Johnston already gave the update
- d. Hope Learning – Will have an update at the September meeting

10. Old Business

- a. Office Cleaning + Floor Mats + Wax Floors + First Aid Kit
 - i. Quotes - No update
- b. Light on Building Sign – No update

11. Correspondence – None

12. New Business

- a. Commission Committees
 - i. Budget (by end of Sept)
 - ii. Committee members - appointed by Chairman Levenson
(meeting is open to the public - anyone else interested may attend)
 - 1. Mike Stuban
 - 2. Steve Anthony
 - 3. Kim Farrow
 - 4. Mark Hertneky
 - 5. Ex-officio - Scott Levenson
 - iii. Set the first budget meeting - possible dates: 8.20, 8.22, 8.26, 8.28, 8.29
 - 1. Location = Conway
 - iv. Set the first budget meeting time.

Michael Stuban read the Budget Committee members as appointed by Chairman Levenson and asked the committee members which date was best for them to meet. Steven Anthony stated that he would have to check his schedule. Michael Stuban stated that we need to find out as soon as possible so we may let Scott Levenson know when we can meet. The location of the meeting will be in the Conway Borough Building. We need to set the time and advertise the meeting. 6:00 PM was fine for a meeting time. Steven Anthony stated that even earlier could work for him.

13. Public Comment

Michael Stuban asked that on future agendas, public comment be placed at the beginning of the agenda because they must be given the opportunity to speak on any agenda item.

Steven Anthony addressed Michael Stuban in regard to the Chief's pension request. He commented that we had the information stating that this (incentive) was going to save us (regional) money for months and it was not until after we got the vote that Michael Stuban didn't like that we now have all this public interest and solicitor for Michael Stuban's side of things. Steven Anthony stated that it would have been nice to

have Michael Stuban give his side of things to the commission before we voted. He stated that the purpose of the commission is to go back on forth on matters like this. He is new to the commission, and he appreciates Michael being second in charge, but having input back and forth for discussion, instead of radio silence minus a couple of comments during the last meeting would have been very helpful in preventing this outcome. Michael Stuban commented that this could have been his reaction at the last meeting, but this is the 4th time that we discussed the chief's request. It was discussed months ago in executive session and the opinion of the commission at that time in executive was 7 to 2 in favor of the request, but no motion was made. At the next meeting it was discussed and the vote changed to 7 to 2 against it. At that time Michael Stuban stated that he brought up all the additional cost. Then for the next two months there was no discussion on this subject until it was brought up last month. Steven Anthony stated that it did not sit silent because Scott Levenson was emailing the spreadsheet with all the columns and information. Steven Anthony commented to Michael Stuban that if he did not agree with the information present it would have been nice of him to point out to the commission what he disagreed with and had an issue with. Steven Anthony then commented that maybe Michael Stuban should have brought the solicitor in sooner than today instead of sitting silent. Mike Lucci spoke up stating that they take everything from the BVRPD meetings back to their board (Rochester Township) and all they had presented their board was the information that Scott Levenson supplied. *(Multiple people started talking and commenting at the same time with sidebar comments from the commission)*

Mike Lucci stated that none of this information was known until tonight but obviously you (visitors in the audience (Baden councilmembers and residents) did. Michael Stuban stated that like Rochester Township, he reports back to the council about the BVRPD meetings. Mike Lucci stated that his board has known for 5 months that the chief wanted to retire. Steven Anthony stated that the pension stuff did not come in until after the July meeting. Mike Lucci questioned when/how the solicitor got involved. Elaine Rakovan stated that she sent the solicitor the pension information per the instructions of Scott Levenson.

Chief Johnston stated that he does not take any of this personally, but that only one side of the story is being told. He stated he is not up for a money grab and informed the public that he has rescinded his request and noted that he is way more financially beneficial to stay on as chief. Chief Johnston stated that there are backsides to every number where you spend money here only to save more money elsewhere. He wanted to explain to the audience that his salary next year will be somewhere between \$140,000 and \$150,000. Using an example pension of \$75,000 per year a drop pension would start January 1, 2025, which means he would lock into a retirement date (max of 5 years). So come 2025 I would be making my salary of \$150,000 plus I will have \$75,000 going into a pension savings account. This is a minimum of \$250,000 a

year starting in 2025. Chief Johnston stated that he is fortunate to love coming to work for the past 30 years. (*Visitors questioned the retirement amounts. The police pension plan was briefly explained*) Chief Johnston stated that he just wanted everyone to know that it wasn't a money grab and he put a lot of thought into this looking at three things. One to take care of himself, two make sure the region isn't losing money and three that the three officers who are considered for his replacement are taken care of he knows what fair wage they would accept.

Becky Gallagher asked if the hard numbers could be looked at and prove which side is right.

Chief Johnston commented about the meeting being stacked this evening and how he told his entire family last month that he was retiring. Becky Gallagher stated that she did not know the details of the Chiefs request until last month's council meeting. Michael Stuban commented that prior to the past month all conversations were done in executive session which should not be discussed in public.

Chief Johnston stated that he has been coming to meeting month after month and was told they were going to vote, and it did not happen until last month's meeting.

John Shelkons commented that the meeting is not stacked, and he was there to ask questions.

Joe Bosh stated that the BVRPD is doing a fantastic job, and he did not want anyone to think that he came there with the wrong intentions. He just wanted more information that he did not have.

Elaine Rakovan stated that she shared all the pension information with everyone that Scott Levenson had on his email chain. She stated that Joe Bosh came to her office earlier in the day asking how the pension works.

Joe Bosh stated that as an obligation to the citizens of our community, we as councilmembers voted to empower this board (BVRPD Commission) to do what it needs to do. If it is a decision between him (Joe Bosh) coming to a BVPRD meeting because he feels responsible as a councilmember who voted to support the commission, he is going to come to the meeting and ask questions instead of setting off alarm bells with residents. Joe Bosh stated that he is happy to be proven wrong and he totally understands the chief's frustration of waiting months and months with nothing happening.

Steven Anthony stated that the public is welcome, but the timing of everything is suspicious and this is what frustrates him.

Joe Bosh commented that it is his understanding that the vote was taken before all the research was done. He doesn't know what is involved with the research and calculations, but we need to know that the math is right and have a comprehensive full overview of the short- and long-term impact on the finances.

Chief Johnston asked how a vote last month is not good, but a vote this month is. David Mitchell explained that the vote (motion) was not on the agenda for the July meeting. An executive session does not justify a vote/motion. The change to the sunshine law took place over a year ago that requires all motions to be on the agenda and posted 24 hours prior to the meeting.

Joe Bosh asked if all of the information (materials) that were presented to the commission be made available to the public. Michael Stuban stated that it is public information and David Mitchell concurred.

Michael Stuban stated that he spoke up during meetings, but he did not put anything in writing. Discussion followed regarding figures in writing. Becky Gallagher stated that she needs facts so that she can tell her residents why we voted in favor of something.

14. Adjourn

Motion by Steven Anthony, second by Kim Farrow, carried unanimously to adjourn the meeting at 7:44PM

Respectfully submitted,

Elaine K. Rakovan

NEXT MEETING - Thursday, September 12, 2024 at 6PM at Conway Municipal Building