

**NORTHFIELD BOARD OF SELECTMEN  
MINUTES OF THE MEETING OF December 14, 2010**

Present: Sel. Bluhm, Sel. Knowlton, Sel. Ziminsky  
Also Present Barton Mayer, Allison Ambrose, Paul Fitzgerald, Michael Pearson, Brian Brown, Patty Brown, Alan Brown, Nancy Brown, Laura Fry, Sally Robert, Sarah Robert, Richard Steven, Joseph Tinker, Debra Shepard, Donna Rhodes, Cathy Keyser, William Keyser, Gary Bouchet, Maureen Bouchet, Mark Witham, George Witham Jr. Eileen Gaudette, Nancy Hicks, Eric Adams, Jen Adams, Tim Dow, Janice Lindbloom, Greg Hill, Chief Adams, Glenn Smith.

Meeting was called to order at 6:30 pm

**1. Selectboard Hearing**

The Chair opened the hearing with a statement explaining that the purpose of the hearing was to hear information concerning the recommendation of Chief Adams that Officer Brian Brown be terminated. He outlined the rules under which the hearing would be conducted. He noted that the hearing would be conducted in two parts: first would be a non-public session to allow Officer Brown to present evidence which, if discussed in public, would likely affect adversely the reputation of a person other than a member of the Selectboard. Following this would be a public session as requested by Officer Brown to consider the charges against Officer Brown.

**Ziminsky/Knowlton** moved to enter into non-public session under the provisions of RSA 91-A3II a,c at 6:35pm. **Motion passed by unanimous roll call vote.** Present at the non-public session were Brian Brown, Attorney Pearson, Attorney Mayer, Attorney Fitzgerald, Allison Ambrose, Chief Adams, Glenn Smith. **Ziminsky/Knowlton** moved that the minutes of the non-public session be sealed. **Motion passed by unanimous roll call vote.** **Knowlton/Ziminsky** moved to reconvene the public session at 7:22pm. **Motion passed by unanimous roll call vote.**

The Chair indicated that the Chief Adams will proceed first, followed by Officer Brown. He reviewed the rules governing the hearing.

Attorney Fitzgerald, representing Chief Adams, declined to make an opening statement. He distributed a notebook of prepared materials and said that although the specific charges before the Board involve the incident on 10/17/10, earlier incidents must be taken into consideration to understand how the Chief arrived at a recommendation of termination. He noted that Officer Brown has been disciplined for these earlier misdeeds and that he is not seeking repunishment.

Attorney Mayer accepted the notebook as Exhibit 1. Sel. Ziminsky inquired as to whether it was part of the public record. Attorney Fitzgerald responded that this was his intent.

Attorney Fitzgerald called Chief Adams to testify. Attorney Mayer swore in Chief Adams. In response to questions from Attorney Fitzgerald, Chief Adams reviewed his qualifications, work history, certification status, and work history with Officer Brown.

In response to questioning by Attorney Fitzgerald Chief Adams testified as follows:

In relation to Notice of Dismissal Charge #1, Chief Adams testified that he was informed by a Concord Police Officer that a Northfield Police cruiser was at Concord Hospital on the day in question by a third party. Upon reviewing the logs for that day and finding no reason why a NPD cruiser would be at the hospital he questioned Officer Brown. Officer Brown admitted to Chief Adams that he took the cruiser to Concord Hospital while on duty to check on an ex-girlfriend, and that he had done so once before. Chief Adams testified that Officer Brown's actions left the Town of Northfield unprotected, when Officer Brown left town to check on his ex-girlfriend there were no other officers on duty. Chief Adams testified that he advised Officer Brown that his actions constituted conduct unbecoming an officer and abandonment of duty.

In relation to Notice of Dismissal Charge #2: Chief Adams testified that paperwork relating to felony arrests needs to be filed within 5 days as per Department policy. The arrest occurred on February 8<sup>th</sup> and the search warrant for blood evidence was not completed until 4/28 and then only after several reminders were given to Officer Brown. He acknowledged that leeway has been given in the past and that this delay was significant since the trial for this case was scheduled for 5/4/10. Chief Adams testified that his case was considered a felony DWI because it involved serious bodily injury. He also testified that Sgt. Raffaely gave Officer Brown a written warning for this incident.

In relation to Notice of Dismissal Charge #3: Chief Adams testified that Officer Brown was given a 5 day suspension for yelling at his supervisor, Sgt. Dow, that the incident occurred over the phone while Officer Brown was in the duty room in the presence of other officers and that Sgt. Dow filed a report on the incident. He considered the act insubordination because it occurred in the presence of other officers. Chief Adams testified that the discipline for this incident was a 5 day suspension plus a requirement to undergo a psychiatric evaluation. The evaluation was ordered because Chief Adams thought Officer Brown was exhibiting signs of depression. Chief Adams testified that the evaluator concluded that Officer Brown was fit for duty. He also testified that Officer Brown did not appeal this disciplinary action or either of the prior two already discussed, except that in this case he appealed to the Selectboard over the length of the suspension, but not the imposition of a suspension.

In relation to Notice of Dismissal Charge #4: Chief Adams reviewed the ride-along policy and the reason the policy is in place. He testified that in this incident Officer Brown had received the necessary approval from the Chief or Officer in Charge but had not notified his shift supervisor of the ride-along. He also testified that Sgt. Raffaely handled the discipline in this case, giving Officer Brown a written reprimand.

In relation to Notice of Dismissal Charge #5: Chief Adams reviewed the policy relating to the need to notify the Chief in the case of a major fire and the justification for the policy. He reviewed the facts to the incident. He noted that Sgt. Raffaely issued Officer Brown a written warning concerning this incident and that he was not personally involved in the incident. He also testified that officer Brown did not appeal this disciplinary action.

Chief Adams testified that it he was concerned about the safety of the citizens of Northfield and liability exposure to the town given the number of disciplinary actions initiated as a result of Officer Brown's actions from the period of September 2009 – September 2010. He noted that he had spoken with Officer Brown several times during this period, saying that he needed to straighten out.

In relation to Notice of Dismissal Charge #6: Chief Adams testified that it was the standard policy of NPD that the new cruiser not be used on the midnight shift for as long as he had been at NPD. He testified that Officer Hutchinson was told by Sgt. Raffaely to inform Officer Brown to use either the detective's car or the 4x4 instead of the 2009 cruiser and that Officer Brown responded that he could not use either vehicle because they lacked the necessary equipment. Officer Hutchinson did so. He testified that all that was required to make the 4x4 fully equipped was to move a few pieces of equipment from a cruiser to the 4x4 and that other officers regularly do this. He noted that the cruiser Officer Brown would have ordinarily used was not being used due to mechanical difficulties. Chief Adams testified that when Officer Brown took the 2009 cruiser after receiving this order it was a violation of a supervisor's order and the terms of the Employee Handbook, and that Officer Brown has not yet been disciplined for this violation.

In relation to Notice of Dismissal charge #7: Chief Adams summarized the facts of the incident. He testified that the morning following the incident Officer Brown told him of the incident and said that he was 'flying', but that he didn't know how fast he was travelling during the pursuit. Chief Adams testified that he believes Officer Brown should have slowed down as he was unfamiliar with the road; that Officer Brown showed bad judgment by engaging in a high speed pursuit on an unfamiliar road for a violation level offense and that he should have broken off the chase when the risk of the chase exceeded the benefit that accrues from continuing the pursuit for a violation level offense. Chief Adams testified that he knew Officer Brown was travelling too fast for the conditions when Officer Brown told him that he was going so fast that he didn't dare look at his dashboard to see how fast he was going. Chief Adams testified that he was concerned when Officer Brown laughed as he said this. Chief Adams reviewed the damage done to the cruiser in this incident. Chief Adams testified that he inspected Old Gilmanton Road and noted that Officer Brown passed a sign indicating that the road was a dead end during the pursuit.

In relation to Notice of Dismissal charge #8: Chief Adams described the camera system. It is designed to be constantly recording the events in front of a cruiser. It is constantly on and records on a hard drive whenever the cruiser is in use. This is overwritten approximately every 7 days. When the blue lights are activated the cruiser also records to a CD, which is a permanent recording. The only way to disengage the system is to manually turn off the camera. Chief Adams testified that there is no reason for an officer to turn off the camera unless he/she is doing something illegal. He reviewed the relevant SOP, noting that it was typed and placed on the desk of each officer. Prior to this incident there had been no cases of officers claiming they have not received an SOP left on their desk. Chief Adams noted that the 10/17 incident occurred as he was leaving for vacation and that he tasked Sgt. Dow to ask Officer Brown and prepare a report. Chief Adams noted that even if Officer Brown had not received a copy of the policy, all officers know of the appropriate use of the camera system as a result of a training class offered by Watchguard at the time the system was installed, and that recently the camera system had been used to prove that Officer Chapple had behaved appropriately in a similar situation recently. Chief Adams reported that the camera system is a valuable investigative tool.

Chief Adams testified that Officer Brown told him that he always turns the camera off when he is on duty and that he had never seen a policy indicating otherwise. Officer Brown offered no other explanation as to why he turned off the camera in his cruiser. Chief Adams noted that by turning off the camera in the cruiser Officer Brown deprived the town and himself of valuable evidence as to the events of 10/17/10.

Chief Adams testified that he is recommending termination because of the totality of all these incidents. His experience is that the previous disciplinary actions, counseling and anger management training have not resulted in a change of behavior on Officer Brown's part. He believes that it would be unsafe for Officer Brown to continue to work as a police officer because he continues to do things that in his own mind he believes are right. Chief Adams reviewed the cases of insubordination, abandonment of duty, and the risk caused by the high speed pursuit. Previous disciplinary actions have not resulted in an improvement in this pattern. Chief Adams reviewed the principles of cumulative discipline, noting that in this case all counts happened in a one year period. He noted that he has no personal issues with Officer Brown and no personal animosity toward him.

In response to questioning by Attorney Pearson Chief Adams testified as follows:

Attorney Pearson distributed a notice of suspension for Officer Brown dated 9/1/10 noting a typographical error on the second page. The notice was entered into the public record as Exhibit A.

Attorney Pearson distributed a memo from Chief Adams dated 10/21/10 which was entered into the public record as Exhibit B. Chief Adams testified that Exhibit B was a note he prepared for his own use concerning the events of 10/17 and that in part it recorded a conversation he had with Officer Brown on the morning of 10/17. Chief Adams acknowledged that it creates suspicion when a person speeds up to avoid being pulled over. Chief Adams testified that he was not at the scene of the pursuit on 10/17 and that it is the policy of the Department that the officer on scene is responsible for assessing the conditions of the scene and acting accordingly. Chief Adams acknowledged that the incident resulted in the arrest of a drunk driver and that this was a positive outcome, that damage to a cruiser is part of the risk of police work and that Officer Brown said that he should have slowed down.

Chief Adams testified that he was aware that Officer Brown had had Canterbury PD and Merrimack County Sheriff's Office notified. Attorney Pearson asked if he would believe the MCSO log if it showed that Officer Brown did not call them. Chief Adams testified that he believes MCSO was called since they responded.

Chief Adams testified that Officer Brown showed him the damage to the cruiser and that he told Officer Brown that such damage occurs all the time.

Attorney Pearson distributed two earlier drafts outlining the charges. This was entered into the public record as Exhibit C.

Chief Adams testified that the first page relates the charges against Officer Brown, and that the second version is one that has been updated to include references to specific violations. This was done at the request of the Selectboard.

Chief Adams testified that the versions all bear the same date of 11/24, and that this is due to the timing of the Selectboard meeting at which the matter was discussed.

Attorney Pearson distributed the Notice of Dismissal, which was entered into the public record as Exhibit D.

Chief Adams testified that he could not explain why the final sentence of the Notice of Dismissal was not reproduced on the version included in Exhibit 1, and that the recommendation for dismissal was his, not that of the Selectboard.

At the request of Attorney Mayer, Attorney Pearson clarified that the document presented to Officer Brown was the Notice of Dismissal that included the final line recommending dismissal.

In relation to Notice of Dismissal Charge #1: Chief Adams testified that he had recommended suspension for this incident, that Officer Brown has been disciplined for this, that to his knowledge Officer Brown has not abandoned his post since this incident and that Officer Brown readily admitted to the facts of the incident when confronted.

In relation to Notice of Dismissal Charge #2: Chief Adams testified that he was aware that Officer Brown thought the arrestee was going to plead guilty and that this accounts for a part of the delay in preparing the search warrant, that Sgt. Dow had offered to help Officer Brown complete the paperwork and that the part of the problem was that the search warrant was needed for a May 4<sup>th</sup> court date.

Attorney Pearson distributed an interdisciplinary action form from Sgt. Raffaely relating to Charge #2, which was entered into the public record as Exhibit E. Chief Adams testified that Sgt. Raffaely had initially recommended more severe discipline and that he had lowered the level of discipline.

In relation to Notice of Dismissal Charge #3: Chief Adams testified that Officer Brown readily provided information concerning this incident, that he did not appeal the matter except that he appeared before the Selectboard to contend that a 5 day suspension was too severe for this infraction. Chief Adams testified that since this incident Officer Brown has continued to work well with Sgt. Dow and that he believes Officer Brown is closer to Sgt. Dow than to Sgt. Raffaely.

In relation to Notice of Dismissal Charge #4: Chief Adams testified that the violation was not that the ride along occurred but that it resulted from the fact that Officer Brown failed to notify his supervisor of the ride along at the start of his shift. Chief Adams testified that he does not remember Officer Brown speaking with Sgt. Raffaely about this. He does not believe that Sgt. Raffaely waited until 10/19 to speak with Officer Brown about this just because the interdisciplinary action form for this incident is dated 10/19. Chief Adams testified that even though the interdisciplinary action form usually lists the type of discipline this one does not, and that he had been advised by Sgt. Raffaely that Officer Brown had refused to sign the form.

In relation to Notice of Dismissal Charge #5: Chief Adams testified that in his opinion this fire qualified as a major structure fire since the building burned to the ground.

Attorney Pearson distributed an excerpt from the NPD police manual detailing when an officer is to notify the Chief or Officer in Charge. This was entered into the public record as Exhibit F. Chief Adams testified that he believes this is a major structure fire, the building burned to the ground and the citizen had to leap from a second story window to the ground. At the time the cause of the fire was unknown, it could have been arson, and officers are directed to call for all structure fires.

Chief Adams testified that he did not know why Sgt. Raffaely delayed disciplining Officer Brown for the structure fire and ride along violations until after 10/17 but that he did not believe it was a response

to the 10/17 incident.

In relation to Notice of Dismissal Charge #6: Chief Adams testified that he was not present for this incident. Chief Adams testified that on the previous evening Officer Brown had asked Sgt. Dow for permission to use the 2009 cruiser and that permission had been granted. The Chief's preference would have been to require that Officer Brown use the 4x4 instead.

Chief Adams testified that he believes that when Officer Hutchinson told Officer Brown 'whatever' in relation to which vehicle to use he meant that Officer Brown could use either the detective's car or the 4x4, and that he had asked Officer Hutchinson to write a report of the incident.

In relation to Notice of Dismissal Charge #7: Chief Adams testified that had Officer Brown discontinued the pursuit he would have done the right thing.

Attorney Pearson distributed copies of the Belknap County Sheriff's Office dispatch log for 10/17/10, which was entered into the public record as Exhibit G. Chief Adams testified that his record of his conversation with Officer Brown about the pursuit was made four days after the pursuit.

In relation to Notice of Dismissal Charge #8: Chief testified that the charge is that Officer Brown was insubordinate for failure to abide by SOP-35-2009, that it was the practice of Sally Robert to type the SOP and distribute it on or about the date listed on the SOP and that Sgt. Dow acknowledged that he did not have a copy of this SOP, stating that he may have lost it when he moved into his new office. Chief Adams testified to the importance of having policies and to the fact that he did not re-think his recommendation to dismiss Officer Brown upon learning from Sgt. Dow that he did not have a copy of the policy.

Chief Adams testified that as a lieutenant he wrote performance appraisals for Officer Brown.

Attorney Pearson asked that Officer Brown's performance appraisals be entered into the public record. This was done, as Exhibit H.

Chief Adams testified that he trusts that the information in the performance appraisals is accurate.

In response to further questioning by Attorney Fitzgerald Chief Adams testified:

Chief Adams testified that had Officer Brown not turned off his camera on 10/17 he would still be recommending dismissal given his record and the other charges. He acknowledged that on another occasion he had approved a level of discipline lower than what was recommended by the Sergeant. Chief Adams testified that during his tenure as Chief no other officer has amassed a disciplinary record similar to that of Officer Brown.

Chief Adams testified that even if Officer Brown did not receive SOP-35-2009 he would have no reason to turn the camera off, and that the fact that the camera was turned off is problematic as it would have provided a record of the events of 10/17. He testified that Officer Brown did not tell him that he had turned off the camera in his cruiser; Chief Adams discovered this from a Sergeant. He clarified that unless the officer turns it off the camera is always on and will record to the permanent CD whenever the blue lights are activated.

The Chair declared a 5 minute recess

The Chair reconvened the hearing.

The Chair asked Attorney Fitzgerald if he had any further witnesses. He said he did not.

Attorney Pearson called Sgt. Dow, who was sworn in and identified himself.

In response to questioning by Attorney Pearson, Sgt. Dow testified as follows:

Sgt. Dow testified that in relation to the incident between himself and Officer Brown it was his recommendation that Officer Brown be suspended for 5 days. Since that time there have been no similar incidents and he and Officer Brown have maintained a good professional and personal relationship. Sgt. Dow testified that he has completed recent evaluations of Officer Brown, that the information in the evaluations are truthful and that Officer Brown has signed the evaluations without reading them for a couple of years. Sgt. Dow testified that Officer Brown has received about the same number of statements of appreciation from the community as other members of the department. Sgt. Dow acknowledged that Officer Brown often uses the phrase 'right, wrong or indifferent' to refer to his belief that he is honest and calls things as he sees them. Sgt. Dow stated that he has found Officer Brown to be honest and credible. Sgt. Dow testified that Officer Brown is usually timely in his reporting, that he has had to counsel Officer Brown a couple of times about filing reports on time, that Officer Brown usually responds to such counseling well, and that in this incident he had to be reminded twice to complete the paperwork. Sgt. Dow reported that Officer Brown is worse than other officers in filing paperwork on time. In this incident the delay was excessive; Sgt. Dow discussed the matter with Sgt. Raffaelly and took the matter to the Chief.

Sgt. Dow testified that he does not remember getting SOP-35-2009 but that he may have received it. He also testified that on 10/15 he told Officer Brown he could use the 2009 cruiser as the 2008-1 cruiser had a headlight out.

In response to questioning by Attorney Fitzgerald, Sgt. Dow testified as follows:

Sgt. Dow testified that he has a reasonable degree of friendship with Officer Brown, that he is pleased with the results of some of the discipline Officer Brown has received, that discipline is fairly common in police departments and that it is important to put those matters behind you when they are completed.

Sgt. Dow testified that Charge #3 happened as presented. He acknowledged that this is the first and only time he has recommended a five day suspension.

Sgt. Dow testified that the summary of Charge #2 presented in Exhibit 1 is factual.

Sgt. Dow testified that he knows of no reason why an officer would turn off the camera in a cruiser, that it was common knowledge within the department that the camera is to be left on, that at the training session conducted when the cameras were installed it was pointed out that the cameras need to be left on to ensure adequate operation of the equipment and that Officer Brown attended this training session. Sgt. Dow testified that he never shuts off the camera and that except for situations involving

vehicle maintenance he has never told anyone else to shut off the camera.

Sgt. Dow acknowledged that although conduct unbecoming an officer is grounds for dismissal he did not recommend dismissal for Officer Brown for Charge #3.

Sgt. Dow did not know if Officer Brown is the only officer to turn off the cruiser camera and that whether the camera should be turned off has been discussed among officers.

Sgt. Dow testified that the confrontation in Charge #3 had to do with scheduling, that scheduling conflicts happened occasionally but not often since he does the scheduling, and that communications issues are generally not a problem in NPD, that 'they have made it one' but that this is not of concern among the officers.

Sgt. Dow testified that he has not communicated with Officer Brown about the pursuit of 10/17 but that he would not have initiated a pursuit under similar conditions. When conducting a pursuit you need to show due care and the officer needs to be aware that he is driving a \$30,000 piece of equipment. In his opinion, when presented with a situation when a person is going 12 MPH over the speed limit at midnight it is OK to flash the lights and begin to turn around but the situation does not justify a pursuit.

Attorney Pearson called Officer Nancy Hicks, who was sworn in and identified herself. In response to questions from Attorney Pearson, Officer Hicks testified as follows:

Attorney Pearson directed her attention to a copy of a note she wrote on October 21, 2010 to Sgt. Raffaely concerning a discussion between Officers Hutchinson and Brown at which she was present. She testified that the contents of the note were accurate. Officer Hicks testified that at the time she was preparing to leave, wasn't paying attention to the full conversation between Officers Hutchinson and Brown, and doesn't have a clear recollection of the conversation but that at the time it was her impression from what she did hear that Officer Brown was to drive the 2009 cruiser so she gave him the keys.

In response to questions from Attorney Fitzgerald, Officer Hicks testified as follows:

Officer Hicks testified that she had no clear recollection of the conversation, remembered that the term 'whatever' was used and could not speak to the intention of Officer Hutchinson when he used this term. She also testified that she was using the 2009 cruiser because she was not on midnight shift.

Attorney Pearson called Officer Hutchinson, who was sworn in and identified himself. In response to questions from Attorney Pearson, Officer Hutchinson testified as follows:

Officer Hutchinson reviewed the statement he had written on 10/23 concerning a conversation he had on 10/16 with Officer Brown about the use of the 2009 cruiser.

Officer Hutchinson testified that he had had his trainee replace the headlight in the detective's care, that he told Officer Brown he could use either the detective's car or the 4x4, and that since it did not have a cage the detective's car was not as safe to use. He testified that he was passing on an instruction from his supervisor, that they wanted to save the mileage on the 2009 cruiser and that

Officer Brown needed to use the detective's car, the 4x4 whatever. It was standard practice to not use the new cruiser on midnight shift.

In response to questions from Attorney Fitzgerald Officer Hutchinson testified as follows:

Officer Hutchinson testified that he was at the training session at which the cruiser cameras were discussed, that every officer was there and that they were told that the cameras should not be turned off.

Officer Hutchinson testified that it would not take much to move equipment from a cruiser to the 4x4 to make it fully equipped, all that is required is moving a camera bag and a taser, and it can be done in no more than 10 minutes.

Officer Hutchison confirmed that the message being sent on 10/16 was to not use the 2009 cruiser on the midnight shift.

In response to further questions from Attorney Pearson, Officer Hutchinson testified as follows:

Officer Hutchinson testified that he could not say how long ago the video training session was, that he had never seen SOP-35-2009, that a copy had not been left on his desk, that he had spoken with Sgt. Raffaely about how important it is to have a policy on this, and that he turns off the camera in the cruiser when he operates it.

Attorney Pearson called Sally Robert, who was sworn in and identified herself. In response to questions from Attorney Pearson Mrs. Robert testified as follows:

Mrs. Robert testified that she did not recall seeing SOP-35-2009; she may have typed it but doesn't remember; the type looks different than what she normally uses. She does recall that after the incident in which video evidence in a cruiser Officer Chapelle was operating was used in an investigation officers discussed having a policy on the use of cruiser cameras.

Mrs. Robert testified that she has found Officer Brown to be truthful and that she can't tell whether or not he receives more or fewer letters of praise from the community than other officers.

In response to questions from Attorney Fitzgerald Sally Robert testified as follows:

Mrs. Robert testified that the type on the GO presented on page 8 of Exhibit 1 is similar to that on SOP-35-2009

Attorney Pearson called Officer Brown, who was sworn in and identified himself.

In response to questions from Attorney Pearson, Officer Brown testified as follows:

Attorney Pearson distributed copies of a letter of appreciation from NH State Police concerning Officer Brown, which was entered into the public record as Exhibit I.

Officer Brown testified that prior to 2009 he had a clean disciplinary record, and that he had received a

letter of appreciation from NH State Police concerning an incident in which he had assisted with the arrest of an individual who had sought to avoid arrest by speeding down I-93.

Attorney Pearson distributed copies of a letter of appreciation received concerning the actions of Officer Brown, which was entered into the public record as Exhibit J. Officer Brown testified that in this incident he responded to a medical emergency situation and performed CPR until the arrival of TNFD personnel. He was given the letter by Sgt. Dow when Sgt. Dow was dropping off a subpoena.

In relation to Notice of Dismissal Charge #3: Officer Brown testified that he approached the Selectboard about reducing the punishment because he thought the punishment was excessive. He also wanted to bring to the Board's attention communication issues occurring in the Department. He was told by the Board that there was going to be another meeting about this, and that he may have been excited and inappropriate with the Board, he felt frustrated with the situation.

Officer Brown testified that after the confrontation with Sgt. Dow he maintained his friendly relationship with him.

In relation to Notice of Dismissal Charge #4: Officer Brown testified that Sgt. Raffaely, who was off-duty, passed him and noticed the civilian in the cruiser. Sgt. Raffaely called the on-duty Sergeant who said he knew nothing of the ride along. He did not hear anything about this incident for a month. He has had this particular citizen as a ride along in the past and it is his standard practice to notify the supervisor at the start of a shift. Officer Brown testified that Sgt. Raffaely did not speak with him about this until after the 10/17 incident in spite of the fact that they had worked together several times between the date of the ride along and 10/17. By the time Sgt. Raffaely did speak with him about it he could not remember if he had called his shift supervisor about the ride along.

In relation to Notice of Dismissal Charge #5: Officer Brown testified that in his opinion the fire was not a major fire, he was aware of the policy but in his opinion this fire did not qualify as a major fire that needed to be reported.

Attorney Pearson distributed copies of the Belknap County Dispatch log for 10/10/10, which was introduced into the public record as Exhibit K. He reviewed the log.

Officer Brown testified that the log shows that at the time he identified this as a garage fire which was not a major fire.

In response to Notice of Dismissal Charge #6: Officer Brown testified that he does not recall that Officer Hutchinson told him that he was relaying an instruction from Sgt. Raffaely concerning the use of the 2009 cruiser and he does not recall Officer Hutchinson offering the 4x4 as a vehicle for his use on this shift. Officer Brown testified that in his opinion his choices were using the detective's car, which was unsafe in his opinion as it lacked a cage rifle and equipment, and the 2009 cruiser. Officer Brown testified that he was not told not to use the 2009 cruiser.

In response to Notice of Dismissal Charge #7: Officer Brown testified that he was on Fellows Hill Road when a vehicle passed him doing 47 mph in a 35 mph zone. He flashed his lights and the vehicle did not slow down. Officer Brown testified that usually in such situations drivers slow down, because this one did not he concluded that the driver was eluding him and that because of this he had reason to

believe that something else was going on. He turned around and started following the other vehicle, turned down Old Gilmanton Road and accelerated to try to catch up. Officer Brown testified that he never called this a pursuit he was trying to close the distance with the other vehicle. The road was wide enough such that this was safe and he was in control of his car.

Officer Brown testified that as he continued he realized that he did not know the area and needed to slow down, he started to back off and then went down the class VI road after he had decided to back off. He was never at risk of leaving the road and that he did hit a rock. After hitting the rock he went an additional 100 ft. He did not have the ability to avoid the rock by stopping. After stopping the cruiser he reported to dispatch and saw that the road split ahead. He walked to the split and heard a car door slam and running into the woods. He called dispatch and asked Belmont to respond. He checked the cab of the truck to ensure no one was in there and walked about 20 feet into the woods. He then went back to the cruiser to use the radio and advised dispatch as to what was happening. He did not ask Merrimack County Dispatch for Canterbury to respond, but they did anyway. He arrested the driver of the other vehicle and call Sgt. Raffaely to let him know what happened.

Officer Brown testified that later on that morning he saw Chief Adams and told him of the incident. He testified that he did not tell Chief Adams that he almost hit a tree, did not tell him that he called Merrimack County dispatch, and did not tell him that he should have stopped earlier. Officer Brown testified that when he told Chief Adams about the bent rim he replied that it was not a big deal.

Officer Brown testified that prior to 10/17/10 he did not hear of the camera policy, but he had heard other officers say there was a need for such a policy. He had also heard other officers say that they shut off the camera. Officer Brown testified that if he retained his job he would give 110%, that he did nothing wrong on 10/17/10 and that he learned of the recommendation for dismissal on 12/1/10.

In response to questions from Attorney Fitzgerald, Officer Brown testified as follows:

Officer Brown agreed that of the eight charges listed in the Notice of Dismissal he does not disagree with the facts of the first five. He agreed that it is an established practice that the new cruiser is not used on the midnight shift. He agreed to some extent that this policy was pointed out to him just before he started his 10/17/10 shift. He does not challenge the fact that two other officers have testified that he was told not to use the 2009 cruiser and said that his differing recollection could be a matter of interpretation.

Officer Brown testified that he agreed that the 4x4 could have easily been equipped, and that he just wanted to do what he wanted to do.

In relation to Charge #3, Officer Brown agreed that he wanted to give his supervisor a piece of his mind, he was going to do what he wanted to do.

In relation to Charge #5 Officer Brown testified that he did not think the fire was a major fire.

Officer Brown testified that he was aware of the policy not to engage in a pursuit for a violation offense, and that he agreed with the statement that he decided to follow the vehicle in violation of the policy.

Officer Brown testified that he had no reason for turning off the camera in his cruiser and that he had attended the class at which officers were trained to not turn off the camera. He also testified that he routinely turned the camera off because there was no policy stating that he shouldn't do so. He agreed with the statement that he substituted his own judgment for Department protocol. He agreed with the statement that when he took the cruiser to Concord to check on an ex-girlfriend while on duty he left the citizens of Northfield in a situation where there was no on-duty patrol officer.

Officer Brown disagreed with the statement that he has a problem with authority figures. He agreed with the statement that reasonable people could review his record and conclude that he had demonstrated a pattern of substituting his own judgment for that of his superiors.

In response to further questioning by Attorney Pearson, Officer Brown testified as follows:

Attorney Pearson distributed SOP-001-2000 relating to pursuits, which was entered into the public record as Exhibit L.

Officer Brown testified that he pulled up when he discovered that it was unsafe to proceed at high speeds, that there was no risk to pedestrians, that there were no adverse traffic conditions and that there were no adverse weather conditions. He agreed with the statement that he discontinued pursuit when it was unreasonable to continue, prior to pulling up he did not consider the pursuit inordinately dangerous.

Officer Brown testified that the concern about his taking the cruiser to Concord to check on an ex-girlfriend was brought to his attention after the event. He testified that Sgt. Raffaely had brought it to his attention that his ex-girlfriend was considering getting a restraining order against him. The conversation with Sgt. Raffaely was after the trip to Concord while on duty but before it was discovered by Chief Adams. Officer Brown testified that after the conversation with Sgt. Raffaely he realized that this behavior was adversely affecting his career and he stopped it.

Officer Brown testified that in the incident with Sgt. Dow his emotions got the better of him and that he was insubordinate with both Sgt. Dow and the Selectboard.

Officer Brown testified that when confronted with the accusation that he did not notify his shift supervisor of a ride along three weeks after the fact he could not recall whether he had made the call or not.

Officer Brown testified that he does not believe that just because a structure is totally engulfed it is a major fire.

As neither party had additional evidence to present to the Board the meeting was recessed at 11:55 pm.

APPROVED BY THE NORTHFIELD SELECTBOARD ON DECEMBER 21, 2010