

GREENFIELD CITY COUNCIL

Executive Session

August 31, 2022

Zoom Conferencing System

6:00 pm

ROLL CALL OF MEMBERS: Roll Call was taken. Vice President Guin; Councilors Bottomley and Mayo were absent.

President Gilmour noted that everybody in attendance must be by themselves. If there's anybody else in the room with them, you'll have to find a place where you can be alone because this meeting is confidential.

ALSO PRESENT: Mayor Roxann Wedegartner; City Clerk Kathryn J. Scott; Chief of Staff Danielle Letourneau; Police Chief Robert Haigh; Acting Chief of Police William Gordon; Reardon, Joyce & Akerson Attorney Austin Joyce; Clifford & Kenny Attorney Dan Williams and Brody Haroon Perkins & Kesten Attorney Leonard Kesten.

Mayor Wedegartner addressed the Council regarding a confidential investigative report concerning Police Chief Robert Haigh and the findings of the investigative report (see attached).

Councilors asked the following questions:

- Correct to say this was a narrow investigation in the context of a court ruling that upset the City.
- Identities of parties were confidential in the report; however, through e-mail correspondence the identities of the parties were disclosed.
- Were the other parties mentioned in the report also invited to attend the executive session; and if not, would it violate open meeting law.
- Who paid for the investigation and why this investigation was requested.
- What was the complaint against Chief Haigh.
- Was it ethical to discuss a matter without the other party mentioned in the report present.
- Clarification of Chief Haigh's administrative leave was based on this investigation and not the verdict rendered against him in a court of law.
- No clarification was given to Councilors as to the reason Chief Haigh was placed on paid administrative leave.
- Aware to the issue the investigative firm was recommended by individual who was formerly related by marriage to Chief Haigh.

Attorney Williams presented a brief summary into the scope of the investigation.

Councilors asked the following questions:

- Documentation that was reviewed during the investigation.
- Attempt to release the voir dire hearing transcript.
- Would the release of the voir dire hearing transcript have an impact on any decision regarding Chief Haigh's reinstatement.
- Date in which the investigation began.
- Commonality of an investigation concluding if one party was uncooperative in the investigation.
- Determination of credibility of a party versus insufficient credibility from documented evidence.
- Purpose of credibility determination presented to Councilors without any standing to make decisions regarding this issue.
- Judgment of the investigator to draw a negative inference towards a party who does not cooperate during an investigation.
- Reason the parties had the conversation outside the court proceedings.

- Time in which Chief Haigh would be reinstated.

Clerk Scott recited the procedure in which to release of materials from the executive session. The attorneys present and Chief Haigh would send notification to the Mayor via email their objection or consent to the release of the executive session materials.

ADJOURNMENT AND EXIT EXECUTIVE SESSION: On a motion by Councilor Desorgher, second by Councilor Helie, it was by roll call, 10 yes, 0 no,
VOTED: TO ADJOURN THE MEETING AT 8:40 P.M.

A true copy,

Attest: _____
 Kathryn J. Scott, City Clerk

GREENFIELD CITY COUNCIL MEMBERS

Zoom Conferencing System
 Executive Session
 August 31, 2022

| | Attendance | Adjourn and Exit Executive Session | | | | |
|------------------------|------------|--|--|--|--|--|
| 1. Golub, Katherine | Y | Y | | | | |
| 2. Guin, Daniel | N | ---- | | | | |
| 3. DeSorgher, Virginia | Y | Y | | | | |
| 4. Bottomley, John | N | ---- | | | | |
| 5. Bullock, Marianne | Y | Y | | | | |
| 6. Gilmour, Sheila | Y | Y | | | | |
| 7. Lapienski, Jasper | Y | Y | | | | |
| 8. Mayo, Douglas | N | ---- | | | | |
| 9. Helie, Derek | Y | Y | | | | |
| 10. Elmer, Philip | Y | Y | | | | |
| 11. Forgey, Christine | Y | Y | | | | |
| 12. Ricketts, Penny | Y | Y | | | | |
| 13. Terounzo, Michael | Y | Y | | | | |

10 y
 0 no



**INVESTIGATION OF COMPLAINT
FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATIONS**

I. Introduction

This report is the result of an investigation into allegations concerning the conduct of members of the City of Greenfield ("City") Police Department. The City engaged this Investigator to determine whether any violations of law or City policies occurred, and if so, to provide recommendations for corrective action, if applicable.

II. Summary of Allegations and Scope of Investigation

In April of 2022, two (2) active members of the City's Police Department testified in court in connection with a race discrimination lawsuit ("the lawsuit") brought against the City and Chief of Police Robert Haigh by former City police officer Patrick Buchanan. During the litigation, current City police Lieutenant Todd Dodge joined the lawsuit, claiming whistleblower status based on his alleged support of Patrick Buchanan's allegations of race discrimination.

At the direction of the City, the scope of this Investigation was limited to the events related to the allegations referenced above, and the witnesses listed below.

III. Witnesses Interviewed

1. Chief Robert Haigh, Chief of Police, City of Greenfield.
2. Leonard Kesten, Esq., City Counsel, City of Greenfield.
3. Erica Brody, Esq., City Counsel, City of Greenfield.
4. Alexei Kesten, Esq., City Counsel, City of Greenfield.

Additionally, Lieutenant Todd Dodge was contacted regarding this investigation and declined to be interviewed on the advice of his counsel. Attorney Michael McDonough, counsel for Lt. Dodge in the above-referenced lawsuit, was also contacted regarding this investigation and declined to be interviewed.

IV. Documents Reviewed

1. City of Greenfield, Equal Employment Opportunity Policy.
2. City of Greenfield, Police Department Rules and Regulations.
3. City of Greenfield, Police Lieutenant, Job Description.
4. City of Greenfield, Chief of Police, Job Description.



5. Defendants Chief Robert Haigh and City of Greenfield Emergency Motion for Reconsideration to Unseal the Voir Dire Hearing.
 6. Plaintiff Todd Dodge's Opposition to City of Greenfield's Emergency Motion for Reconsideration to Unseal the Voir Dire Hearing.
 7. Memorandum of Decision and Order on Defendants' Emergency Motion for Reconsideration to Unseal the Voir Dire Hearing, dated June 13, 2022 ("Memorandum of Decision and Order").
 8. Chief Robert Haigh's Written Statement submitted to Hampshire County Assistant District Attorney Steven Gagne, dated April 24, 2022 ("Chief Haigh's Written Statement").
- V. Relevant City Policies
1. City of Greenfield, Police Department Rules and Regulations, Rule 4.0 – Professional Conduct and Responsibilities.
 2. City of Greenfield, Police Department Rules and Regulations, Rule 4.02 – Conduct Unbecoming of An Officer.
 3. City of Greenfield, Police Department Rules and Regulations, Rule 4.10 – Improperly Influenced Testimony.
 4. City of Greenfield, Police Department Rules and Regulations, Rule 7.7 – Truthfulness.

VI. Findings of Fact

Based on the interviews of the witnesses listed above, as well as the above-referenced documents and policies, this Investigator makes the following findings of fact:

1. By way of background, in 2015, former City police officer, Mr. Patrick Buchanan ("Mr. Buchanan"), filed a lawsuit against the City and City Police Chief Robert Haigh ("Chief Haigh") (collectively hereinafter, "the Defendants"). Specifically, Mr. Buchanan alleged that the Defendants unlawfully discriminated against him on the basis of his race by failing to promote him to a superior officer level position. (Interview of Chief Haigh; Interview of L. Kesten; Interview of A. Kesten; Interview of Attorney Brody).
 - a. As mentioned above, Lieutenant Todd Dodge ("Lt. Dodge") joined the lawsuit against the Defendants, asserting that he is a whistleblower who was allegedly retaliated against by the Defendants because of his purported support of and participation in Mr. Buchanan's race discrimination lawsuit. Lt. Dodge has claimed to have witnessed alleged racially discriminatory actions taken against Mr. Buchanan by the Defendants. (Interview of L. Kesten; Interview of Chief Haigh; Memorandum of Decision and Order).

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- b. In 2022, the lawsuit proceeded to a jury trial. Although the jury in the lawsuit ultimately found that the Defendants discriminated against Mr. Buchanan, the jury did not similarly find that Lt. Dodge is a whistleblower or that the Defendants retaliated against Lt. Dodge. (Interview of L. Kesten; Interview of A. Kesten; Interview of Attorney Brody).
2. On April 21, 2022, Chief Haigh was called to testify in the lawsuit. Chief Haigh testified that he “heard rumors about Lt. Dodge’s [conduct].” Chief Haigh also recalled testifying that he “does not act on rumors,” when deciding whether it is necessary to investigate rumors concerning the conduct of City police officers. (Interview of Chief Haigh; Interview of L. Kesten; Interview of A. Kesten; Interview of Attorney Brody).
 - a. After Chief Haigh testified, Lt. Dodge’s attorney, Attorney Michael McDonough (“Attorney McDonough”) approached Chief Haigh’s counsel, Attorney Leonard Kesten (“Attorney L. Kesten”), about Chief Haigh’s testimony. According to Attorney L. Kesten, Attorney McDonough said, his client was, “bullshit at the Chief for what he perceived to be a personal attack,” and he was “ready to go nuclear.” Attorney McDonough indicated to Attorney L. Kesten that Lt. Dodge planned to testify that Chief Haigh engaged in unprofessional conduct [REDACTED]. (Interview of L. Kesten; Interview of Chief Haigh).
 - i. Attorney L. Kesten told this Investigator that Attorney McDonough said, “the only way not to have these claims go forward is to pay Lt. Dodge four hundred and fifty thousand dollars (\$450,000),” as a settlement. According to Attorney L. Kesten, Attorney McDonough said that if the case does not get resolved, “Lt. Dodge would provide personally damaging testimony about Chief Haigh,” when he takes the stand. (Interview of L. Kesten; Chief Haigh’s Written Statement).
 1. Attorney Erica Brody (“Attorney Brody”), Attorney Alexei Kesten (“Attorney A. Kesten”), and Attorney L. Kesten explained to this Investigator that the Defendants had not previously entertained a possible settlement agreement with Lt. Dodge because they felt Lt. Dodge’s previous deposition testimony undermined his claim that he is a whistleblower. (Interview of L. Kesten; Interview of Attorney Brody; Interview of A. Kesten; Chief Haigh’s Written Statement).
 - b. Attorney L. Kesten told Chief Haigh about what Attorney McDonough said to him regarding Lt. Dodge’s expected testimony and the possibility that he goes “nuclear.” Chief Haigh denied all allegations of inappropriate conduct to Attorney L. Kesten. Ultimately, Lt. Dodge’s purported settlement demand was rejected by the Defendants, without any counteroffer or further settlement discussions. As a result, Lt. Dodge was expected to testify in the lawsuit the next day. (Interview of L. Kesten; Interview of Chief Haigh).



3. On the morning of April 22, 2022, Lt. Dodge approached Chief Haigh in the parking lot outside of the courthouse before the hearing. Chief Haigh notified his counsel of Lt. Dodge's request to speak with him. Although the Defendants had not entertained Lt. Dodge's previous attempts to engage in settlement negotiations with them, Chief Haigh was allowed to speak with Lt. Dodge. (Interview of L. Kesten; Interview of Chief Haigh; Interview of Attorney Brody; Interview of A. Kesten).
 - a. Chief Haigh recalled that when he met with Lt. Dodge, Lt. Dodge said he believed he would have been paid out a settlement and the case would not go to trial. Chief Haigh also stated that Lt. Dodge told him he was upset about Chief Haigh's testimony on April 21, 2022. According to Chief Haigh, Lt. Dodge said, "you really hurt me yesterday with your testimony," and he felt that Chief Haigh was "blindsiding" him. (Interview of Chief Haigh; Chief Haigh's Written Statement).
 - b. Chief Haigh stated that he then attempted to clarify for Lt. Dodge that his earlier testimony was intended to show that Chief Haigh does not act on rumors alone. Chief Haigh recalled that Lt. Dodge acknowledged Chief Haigh does not act on rumors, but he reiterated that his testimony hurt him. Chief Haigh then told Lt. Dodge, "you hurt me when you called me racist." Chief Haigh recalled that Lt. Dodge said, "no, we called you a bigot," and they continued to discuss why Lt. Dodge was upset about Chief Haigh's testimony. (Interview of Chief Haigh; Chief Haigh's Written Statement).
 - c. Chief Haigh recalled that Lt. Dodge also told him, "[y]ou are going to be found guilty of racism, you're going to lose your career, you're going to be labeled that, and you're going to be done," in reference to his career in law enforcement. Chief Haigh told this Investigator that he responded to Lt. Dodge and said, "you have known me forever and you know I haven't done anything racially motivated in my life," or words to that affect. According to Chief Haigh, Lt. Dodge responded by saying, "Chief, I know you are not a racist, but by the end of this, you're going to look like one." (Interview of Chief Haigh; Chief Haigh's Written Statement).
 - i. Chief Haigh also told this Investigator that when he notified Lt. Dodge that he was aware of Lt. Dodge's plan to testify that Chief Haigh [REDACTED], Lt. Dodge responded by saying, "there is more, I have plenty on you." Chief Haigh stated that he believed Lt. Dodge planned to further testify that Chief Haigh was "buying drinks and had the company car" during a weekend-long department accreditation trip in Cape Cod in March of 2022. (Interview of Chief Haigh).
 1. Chief Haigh denied having alcohol issues, driving while under the influence of alcohol, or using the City's funds to pay for alcohol

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during the work-related department accreditation trip to Cape Cod in March of 2022. In support of his denial, Chief Haigh indicated that the City's credit card receipts would show that he did not purchase alcoholic beverages with it. (Interview of Chief Haigh).

- ii. Chief Haigh also notified this Investigator that in 2014, his infant child was seriously injured from a dog attack and this incident significantly impacted his family. [REDACTED]

d. Chief Haigh stated that Lt. Dodge said, "I need something out of this, I need to be made right. I need one hundred thousand dollars (\$100,000) clear in my pocket and I walk out of here right now and this is over." Chief Haigh recalled asking Lt. Dodge what his co-plaintiff, Mr. Buchanan, wanted, to which, according to Chief Haigh, Lt. Dodge responded, "I don't know what he wants, and I don't really care, I want to be taken care of." (Interview of Chief Haigh; Chief Haigh's Written Statement)

- i. Chief Haigh then told Lt. Dodge that he would ask his attorneys about the settlement request. When Lt. Dodge and Chief Haigh were walking back into the courtroom, Chief Haigh asked Lt. Dodge how much his attorneys fees were. According to Chief Haigh, Lt. Dodge said, "one third, so I need one hundred and fifty thousand (150,000) so I can clear one hundred," or words to that affect. (Interview of Chief Haigh; Chief Haigh's Written Statement).

e. Immediately after meeting with Lt. Dodge, Chief Haigh notified his attorneys about what was said during their conversation. According to Attorney Brody, Chief Haigh was "visibly upset" about his conversation with Lt. Dodge. Chief Haigh stated it was his understanding that unless he agreed to pay Lt. Dodge the \$150,000, Lt. Dodge "intended to say whatever he needed to make [him] look like a horrific person and a racist, even though [Lt. Dodge] knew that was not true." (Interview of Chief Haigh; Interview of L. Kesten; Interview of Attorney Brody; Interview of A. Kesten; Chief Haigh's Written Statement).

4. When Chief Haigh and Lt. Dodge returned to the courtroom, Lt. Dodge proceeded to testify as scheduled. According to Chief Haigh, Lt. Dodge testified that Chief is a racist and did not promote Mr. Buchanan because of his race. Chief Haigh also recalled Lt. Dodge testified that Chief Haigh called Mr. Buchanan names like "lazy," because of his race. Chief Haigh stated that Lt. Dodge testified he was instructed by Chief Haigh to "get around civil service, specifically to not promote Mr. Buchanan." Chief Haigh stated that the final question asked of Lt. Dodge on direct examination was "whether he heard

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rumors about Chief Haigh [REDACTED].” According to Chief Haigh, Lt. Dodge responded by testifying, “I have [heard] plenty.” (Interview of Chief Haigh).

- a. When Lt. Dodge’s testimony concluded, Attorney McDonough, Attorney Tim Ryan (counsel for Mr. Buchanan), and Attorney L. Kesten had a sidebar discussion with the Superior Court judge. During this sidebar discussion, Attorney L. Kesten raised concerns about the conversation between Lt. Dodge and Chief Haigh that took place earlier in the day. Due to the sensitive nature of the conversation between Chief Haigh and Lt. Dodge, Attorney L. Kesten sought to seal the record of the sidebar discussion. (Interview of L. Kesten; Interview of Attorney Brody; Interview of A. Kesten).
 - i. At the end of the day on April 22, 2022, Chief Haigh and Attorney L. Kesten went to the Hampshire District Attorney’s office to discuss what took place during the hearing. At that time, Chief Haigh was instructed to submit a written account of the conversation to the District Attorney’s office, which Chief Haigh submitted and is dated April 24, 2022. (Interview of Chief Haigh; Interview of L. Kesten; Chief Haigh’s Written Statement).
5. On April 25, 2022, the Plaintiffs filed a Motion in Limine to exclude the purported inadmissible statements made during “compromised negotiations” between Chief Haigh and Lt. Dodge. The same day, the Superior Court judge conducted a hearing on the Motion in Limine at sidebar, including a voir dire hearing in which both Lt. Dodge and Chief Haigh testified, to address their conversation on April 22, 2022. (Memorandum of Decision and Order).
 - a. Prior to the sidebar hearing, the Defendants requested that the voir dire hearing be sealed, and the plaintiffs agreed. Accordingly, the Superior Court judge sealed the Motion in Limine hearing, along with the record of the voir dire hearing testimony. (Memorandum of Decision and Order).
 - b. During the voir dire hearing, Chief Haigh and Lt. Dodge each testified about the statements they made during their conversation on April 22, 2022. Lt. Dodge reportedly testified that Chief Haigh used the City’s credit card to purchase alcohol beverages and drove while under the influence of alcohol during the department accreditation trip. According to Chief Haigh and Attorney L. Kesten, Lt. Dodge also denied telling Chief Haigh that he knew Chief Haigh was not racist. Chief Haigh further stated that he went on the stand and rebutted all of Lt. Dodge’s allegations.¹ (Interview of Chief Haigh; Interview of L. Kesten; Memorandum of Decision and Order).

¹ The Superior Court judge sealed the record of the hearing on the Motion in Limine, including the voir dire aspect of the motion hearing. As a result, this Investigator finds that the exact line of questioning and the answers provided by Chief Haigh and Lt. Dodge during the voir dire hearing are uncertain and cannot be determined without reviewing the transcript of the voir dire hearing testimony. (Memorandum of Decision and Order).



6. On June 13, 2022, the Superior Court judge presiding over the lawsuit issued a Memorandum of Decision and Order on the Defendants' Emergency Motion for Reconsideration to Unseal the Voir Dire Hearing. Specifically, the Superior Court judge denied the Defendants' emergency motion, finding that the conversation between Lt. Dodge and Chief Haigh constituted confidential settlement negotiations. The judge also filed his Memorandum of Decision and Order under seal, except that it was to be made available to the parties and their respective counsel. (Memorandum of Decision and Order).

VII. Conclusion

Based on the findings of fact above, this Investigator concludes that there is no credible evidence that Chief Haigh violated City policy. Chief Haigh fully cooperated with this investigation, and the information he provided to this Investigator was not contradicted by any evidence obtained during the investigation. Moreover, Chief Haigh's recollection of the events that led to this investigation was wholly corroborated by his counsel. Chief Haigh presented with a level-headed demeanor during his interview, and he was a forthcoming and transparent witness. Accordingly, this Investigator finds Chief Haigh to be highly credible.

Notwithstanding the fact that Chief Haigh is highly credible, this Investigator notes that Chief Haigh's counsel were not first-hand witnesses to the conversation between Chief Haigh and Lt. Dodge on April 22, 2022. Essentially, Chief Haigh's counsel could only credibly corroborate the statements that Chief Haigh previously made to them about his conversation with Lt. Dodge. As a result, the corroborating statements provided to this Investigator by Chief Haigh's counsel about the events that took place on April 22, 2022, are purely hearsay. Therefore, this Investigator concludes that the corroborating statements made by Chief Haigh's counsel are entitled to only minimal weight.

This Investigator further concludes that there is insufficient credible evidence that Lt. Dodge violated City Policy. Lt. Dodge, based on the advice of his counsel, did not fully participate in this investigation. While this Investigator is therefore entitled to draw a negative inference with respect to the allegations raised against Lt. Dodge concerning his conversation with Chief Haigh on April 22, 2022, that inference alone does not provide sufficient evidence to sustain the allegations against Lt. Dodge. The only evidence offered to corroborate Chief Haigh's recollection as to what occurred during his conversation with Lt. Dodge on April 22, 2022, are the recollections of Chief Haigh's counsel, which, as explained above, are purely hearsay and entitled to only minimal weight. Additionally, because the voir dire hearing record has been sealed, this Investigator is unable to determine what exactly was asked and answered during the voir dire hearing. As a result, this Investigator concludes there is insufficient credible evidence that Lt. Dodge attempted to extort Chief Haigh on April 22, 2022, or otherwise violated City policy.

Finally, this Investigator concludes that there is insufficient credible evidence to determine whether Chief Haigh or Lt. Dodge committed perjury. It is undisputed that Chief Haigh and Lt. Dodge provided contradictory testimony during the lawsuit. Both Chief Haigh and Lt. Dodge testified under oath and were subject to the pains and penalties of perjury. However, the crux of this investigation turns on what occurred during their April 22, 2022, conversation, which took place

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outside of the courtroom and without any other witnesses present. Despite concluding that Chief Haigh is a highly credible witness and that a negative inference may be drawn against Lt. Dodge for not fully participating in the investigation, this Investigator cannot render a conclusion as to whether Chief Haigh or Lt. Dodge committed perjury without being able to review the transcript of the relevant voir dire testimony. Therefore, unless the record of the voir dire hearing is unsealed *and* contains false or contradictory testimony by either Chief Haigh or Lt. Dodge, there is insufficient credible evidence to conclude that either Chief Haigh or Lt. Dodge committed perjury while testifying in the lawsuit.

Respectfully submitted,

/s/ Daniel R. Williams

Daniel R. Williams, Esq.
Clifford & Kenny, LLP
31 Schoosett St., Unit 405
Pembroke, MA 02359

Dated: August 15, 2022