



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

Telephone
(617) 796-1100

Facsimile
(617) 796-1113

TDD/TTY
(617) 796-1089

E-mail
swarren@newtonma.gov

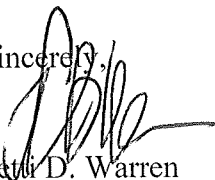
Matthew Cummings
44 Oregon Road
Ashland, MA 01721

October 11, 2012

Dear Chief Cummings:

Pursuant to paragraph 5 of your current Chief of Police's contract and after a hearing and findings of fact by Hearing Officer Robert R. Rooney, you are hereby terminated as Chief of Police for the City of Newton.

Sincerely,



Setti D. Warren
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

FINDINGS OF FACT BY HEARING OFFICER ROBERT R. ROONEY

Pursuant to Paragraph 5(a) of the Chief of Police's Contract dated March 5, 2009, Chief Matthew Cummings was afforded a hearing for charges of "conduct unbecoming a Police Chief" and "inability satisfactorily to perform the services required of him."

Both Chief Cummings and the City of Newton were represented by counsel at the hearing. Two motions in limine were presented by the City of Newton. One was to limit the testimony of witness Jeanne Sweeney Mooney. The other was to preclude an investigator in an unrelated criminal matter, Edward Johnson, from testifying. Both motions were allowed. One motion in limine was presented by Chief Cummings, requesting the recusal of the hearing officer. This motion was denied.

Counsel for the parties presented opening statements, called witnesses, presented evidence and made closing arguments. The City of Newton called 4 witnesses and presented 3 exhibits (Chief of Police's Contract dated March 5, 2009, September 11, 2012 Hearing Notice, and Executive Summary and Full Report of Edward Mitnick). Chief Cummings called 3 witnesses and did not present any exhibits. Chief Cummings was present at the hearing but did not testify. I have reviewed all of the exhibits.

Based on the credible and relevant witness testimony and evidence presented at the hearing, I hereby make the following findings of fact:

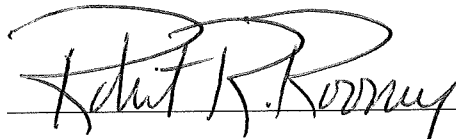
1. At all relevant times, Jeanne Sweeney Mooney has been the Executive Administrator for the City of Newton Chief of Police's Office.
2. At all relevant times, Matthew Cummings has been the City of Newton Chief of Police.

3. On one occasion, Chief Cummings called Ms. Mooney a “bitch” in the workplace.
4. Ms. Mooney was offended and embarrassed by the comment.
5. On a second occasion, Chief Cummings told Ms. Mooney that he thought she looked like a “whore” in the workplace.
6. Ms. Mooney was offended, embarrassed and humiliated by the comment.
7. Lt. Downing was present for this remark and found Chief Cummings’ remark inappropriate by responding “I probably would not have said that.”
8. On a third occasion, Chief Cummings remarked to Ms. McNair, a pregnant police officer in the workplace, “You’re almost as fat as I am.”
9. Ms. McNair was very upset by the comment.
10. Substantial evidence exists to support the conclusion that Chief Cummings made inappropriate and offensive comments to Jeanne Sweeney Mooney and Police Officer Dina Vacca that each constitute conduct unbecoming a Police Chief.
11. Substantial evidence exists to support the conclusion that Chief Cummings kicked Ms. Mooney at the workplace, breaking her shoe and injuring her foot. This inappropriate physical contact with a subordinate employee constitutes conduct unbecoming a Police Chief.
12. Given his position and authority, Chief Cummings is expected to set the tone for the department and refrain from using language and engaging in conduct or condoning any

language or conduct in the workplace that could possibly be perceived as inappropriate or offensive.

13. Substantial evidence exists to support the conclusion that Chief Cummings lied to Ms. Mooney in the workplace by telling her that an "I-Team" was investigating her. This conduct of purposefully lying to a subordinate employee constitutes conduct unbecoming a Police Chief.
14. By engaging in all of the above-referenced conduct, Chief Cummings has engaged in conduct unbecoming a Police Chief.
15. By engaging in all of the above-referenced conduct, Chief Cummings has irreparably compromised his ability to satisfactorily perform the services required of him as Police Chief.
16. Chief Cummings was present at the hearing but he did not testify and he did not otherwise refute the allegations and sworn testimony of the City of Newton's witnesses.
17. A negative inference has been drawn from Chief Cummings' decision not to testify.

Based on my findings of fact, I hold that there is substantial evidence to support a breach of contract by Chief Cummings and thus the termination of Chief Cummings.


Robert R. Rooney, Hearing Officer

Dated: October 11, 2012