Resolution No. 2014-41

***Whereas***, Richard Hoffman, is a Police Officer of the City of Bethlehem; and

***Whereas***, Bethlehem City Council was advised via written correspondence of John F. Spirk, Jr., Esq., City Solicitor, dated December 20, 2013 as to the misconduct of Officer Hoffman, and the Police Department’s recommendation of termination; and

***Whereas***, there occurred an intervening installation of a newly elected Mayor and other City of Bethlehem Administration officials; and

***Whereas***, Bethlehem City Council was advised via written correspondence of William P. Leeson, Esq., City Solicitor, dated January 14, 2014, that the Administration recommended proceeding with the termination of Officer Hoffman; and

***Whereas***, Daniel G. Spengler, Esquire, was appointed Bethlehem City Council Solicitor *pro tem* for the purposes of representing the Counsel during the termination proceedings due to the potential conflict of interest of its newly appointed solicitor, John F. Spirk, Jr., Esquire; and

***Whereas***, 53 Pa.C.S. § 39408 states:

“All employes subject to civil service shall be subject to suspension by the director of the department for misconduct, or violation of any law of this Commonwealth, any ordinance of the city, or regulation of the department, pending action by the city council upon the charges made against any of such employes. On hearing before the city council, where they may be represented by counsel, they may be fined or suspended for a period not exceeding thirty days with or without pay, or they may be discharged by city council, if found guilty of the charges made against them. The director of each such department may, for misconduct or violation as aforesaid, suspend any employe of such department for a period of ten days, with or without pay, without preferring charges and without a hearing of council; but no employe shall be suspended more than one time for the identical or same violation or act of misconduct.…;”

and

***Whereas***, pursuant to proper Public Notice, Bethlehem City Council held a public hearing on Monday, February 24, 2014 commencing at 7:00 PM; and

***Whereas***, Officer Richard Hoffman, represented by Quintes D. Taglioli, Esq., advised through his attorney that neither he nor his attorney would appear at the scheduled February 24, 2014 public hearing; and

***Whereas***, upon consideration of the testimony, exhibits, and arguments submitted to Bethlehem City Council at its public hearing of February 24, 2014, it is hereby:

***Resolved*** by Bethlehem City Council as follows:

Findings of Fact:

1. On August 8, 2013, and at all other relevant times hereto, Officer Richard Hoffman was a police officer employed by the Police Department of the City of Bethlehem.
2. At approximately 3:00 AM on August 8, 2013, Officer Richard Hoffman, while off duty, was the operator of a GMC Acadia involved in a motor vehicle accident at the corner of East Broad Street and High Street in the City of Bethlehem, Pennsylvania.
3. Officer Hoffman’s vehicle struck several parked motor vehicles, damaging three; his vehicle then flipped on its side. Officer Hoffman was extricated from his vehicle by members of the Bethlehem Fire Department.
4. Officer Hoffman’s blood was drawn at 4:40 AM on August 8, 2013, and subsequent testing revealed a B.A.C. (Blood Alcohol Content) result of 0.16%.
5. Officer Hoffman was charged with Driving Under Influence of Alcohol or Controlled Substance, 75 Pa.C.S. §3802(a)(1) and Careless Driving, 75 PA.SC.S. §3714(a).
6. Officer Hoffman agreed to participate in the Accelerated Rehabilitative Disposition (A.R.D.) program for the DUI offense on January 14, 2014, while the Careless Driving Offense was withdraw by the District Attorney of Northampton County.
7. Acceptance into the A.R.D. program includes an admission of guilt and is recognizable as guilt under Bethlehem Police Department Directive 1.3.2.
8. Officer Hoffman was scheduled to begin a shift as a Bethlehem Police Officer at 7:45 AM on August 8, 2013, at which time it is probable he would have still been under the influence of alcohol and, therefore, unable to perform the duties required of him.
9. Officer Hoffman told the investigating officer, Sgt. Ronald Brazinski, that he swerved to avoid a pedestrian.
10. Officer Michelle Dologite reported that while on traffic patrol that evening she witnessed the accident and saw no pedestrian in the area of the accident.
11. Several weeks following the accident, Officer Hoffman was interviewed again by Internal Affairs, at which time he informed the officer that he was distracted by looking at his cell phone to read a message from Dispatcher Kelly Stefko, and also admitted that he was under the influence of alcohol and at fault for the accident.
12. On the evening of August 7, 2013, prior to this incident, Officer Hoffman had consumed alcohol at a Godsmack music concert, and later at the Fraternal Order of Police hall at 77 West Broad Street, and at several other establishments in the area of the hall.
13. Shortly before 3:00 AM on August 8, 2013, Officer Hoffman and Officer William Audelo were involved in horseplay at the FOP hall which escalated into a minor altercation.
14. Officer Hoffman and Officer Audelo were separated by other officers at the scene, and Officer Hoffman was escorted from the hall by Officer John Desiderio, who had been drinking with him throughout the evening, and permitted to drive home.
15. The accident occurred shortly thereafter.
16. Prior to this incident, Officer Hoffman had been involved in several other incidents, some of which involved his abuse of alcohol.
17. On May 14, 2005, while off duty and drinking in a bar at 11th and Vine Streets in Philadelphia, Pennsylvania, Officer Hoffman was involved in an altercation with an off duty Philadelphia police officer.
18. Officer Hoffman was loud, abusive and threatening, including a threat to “bring 20 guys down” to beat the Philadelphia police officer.
19. Officer Hoffman was handcuffed and taken to a Philadelphia Police precinct station.
20. The Philadelphia police determined that the incident should be handled by his police department and required his platoon Lieutenant to be awoken, drive to Philadelphia, and take him home.
21. Officer Hoffman was informed at that time by his Lieutenant that if any such incident occurred again he would be terminated. Officer Hoffman received and signed a written reprimand, which included his written statement recognizing his problem with alcohol abuse and promising to get help.
22. This written reprimand was made a part of Officer Hoffman’s permanent file.
23. On December 10, 2010, Officer Hoffman and a trainee police officer arrested and transported an individual for an outstanding warrant.
24. In violation of regulations, Officer Hoffman did not properly search the arrestee and the controlled substance marijuana was later found in his pocket.
25. After being turned over to the Northampton County Sheriff’s Department and transported to the Northampton County Prison, a 9 mm. handgun was found on the same individual.
26. The Bethlehem Police Department protocol calls for officers when arresting persons to search him or her for weapons, including the use of a metal detection wand, which if used in this incident would have lead to the discovery of the weapon on the arrestee.
27. The failure to properly search the arrestee and remove the handgun from his person placed law enforcement personnel and the general public at risk of serious harm.
28. As a result, Officer Hoffman received a 10-day suspension and the trainee was terminated.
29. On March 16, 2013, Officer Hoffman, while off duty, was drinking with friends at Molly’s Irish Grille in Bethlehem, where he became involved in an altercation with another male patron in which Officer Hoffman grabbed the man around his throat.
30. Officer Hoffman was escorted from the premises by bar security. He told the bar security officer, Scott Hunsicker, that he was a cop and “would make your life hell.”
31. When outside, Officer Hoffman told the bar owner, Charles Patrick, that he would make trouble for him.
32. Both Charles Patrick and Scott Hunsicker expressed concern should Officer Hoffman later respond to a call at their establishment.
33. On April 11, 2013, Officer Hoffman, while on duty, transmitted personal and obscene communications, as well as disparaging comments about other police personnel, to dispatcher Kelly Stefko over a two hour period on his vehicle’s Mobile Data Terminal in violation of department regulations.
34. At the beginning of Officer Hoffman’s shift the prior week, he and other officers on the shift were specifically warned against using the MBT for personal and other messages which could later be used against the Department in court.
35. On July 31, 2013, Officer Hoffman was in Atlantic City, New Jersey, at a bachelor party. In the early morning hours, the officers were asked to leave a casino restaurant believed to be due to their loud behavior.
36. Although no charges or other discipline was sought, Officer Hoffman admitted that he had no recollection of the incident and that his memory was “fuzzy” due to his consumption of alcohol.

Conclusions of Law

1. Bethlehem City Council specifically finds that Officer Hoffman violated the City of Bethlehem Code of Ethics and Bethlehem Police Department Directives as follows:

a. Sections 1.3.2(IV)(E)(13); 1.3.1(II)(A)(1); 1.3.2(IV)(G)(1) by being involved in a motor vehicle accident on August 8, 2013, while under the influence of alcohol hours before he was scheduled to report for work.

b. Sections 1.3.2(IV)(A)(2); 1.3.2(IV)(I)(2); 1.3.2(IV)(I)(3); 1.3.2(IV)(E)(4) by being charged with Driving Under the Influence and Careless Driving as a result of the accident occurring on August 8, 2013.

c. Sections 1.3.2(IV)(B)(7); and 1.3.2(IV)(B)(8) by providing untruthful and misleading statements concerning the causation of the accident on August 8, 2013 and thereafter.

1. The record as presented to Bethlehem City Council contains overwhelming evidence that Officer Hoffman committed numerous prior violations of Police Department Directives including:

a. Officer Hoffman was involved in an alcohol related bar fight in the City of Philadelphia on May 14, 2005 and received a written disciplinary reprimand, in which he acknowledged his guilt, which was made a part of his permanent file.

b. Officer Hoffman was given a 10-day suspension for failing to follow police procedures when searching an arrestee on December 10, 2010, and which failure lead to the arrestee having a firearm on his person when taken to the Northampton County Prison. This failure seriously risked the lives of law enforcement officers.

c. On March 16, 2013, at Molly’s Irish Pub in the City of Bethlehem, Officer Hoffman was removed from the bar for fighting with another patron, upon which he misused his position as a police officer by threatening to cause trouble for the bar security officer and the bar owner.

d. In violation of Police Procedures, on April 11, 2013, he used the Mobile Data Terminal in his police vehicle to communicate personal and obscene messages, as well as messages disparaging to the police department, to dispatcher, Kelly Stefko.

e. On July 31, 2013, while in Atlantic City for a bachelor party, he and other officers were asked to leave a restaurant. When questioned about the incident, Officer Hoffman admitted that he had little or no recollection of the night due to his alcohol consumption.

***Therefore, be it Resolved*** that Officer Richard Hoffman is found guilty of the charges as lodged and pursuant to 53 Pa.C.S. § 39408 the punishment of termination is imposed by Bethlehem City Council effective December 20, 2013.

 Sponsored by: /s/ Michael D. Recchiuti

 /s/ Adam R. Waldron

***Adopted*** by Council this 18th day of March, 2014.

 /s/ J. William Reynolds

 President of Council

ATTEST:

/s/ Cynthia H. Biedenkopf

 City Clerk