

July 20, 2011
Regular Meeting Board of Fire Commissioners

The regular meeting of the Board of Fire Commissioners was held on the above date.

President Rosenberg called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance to the Flag.

Present: President Rosenberg, Vice President Ana Garcia, Commissioners Doris G. Garcia, Klein, Meszoros, Rodriguez and Fire Chief Rooney

Absent: Commissioner Mary Lee

Commissioner Ana Garcia motioned to dispense with reading the minutes of the previous meeting; Commissioner Meszoros seconded and the Board passed it unanimously.

Old Business

1. Local 834-Grievance 2011-12; Time off not granted.

Union President Whitbread represented that over the last year there were some horrific snow storms and other events that occurred during the winter. Their contract says that if City Hall employees are off that they get a day off and in one memo from Elaine Ficarra it said that all City Hall and Board of Ed offices will be closed Monday the 27th, only essential City and BOE employees should report to work. Nobody that he knew in Admin was told that they didn't have to come into work and that's the basis of the grievance.

Deputy Chief Petrucelli had copies of the contract and stated that the only thing that addresses anything close to this is the Section highlighted where it speaks about if other City employees are granted a holiday off with pay that the Fire Department employees would also have to be given this holiday, it also addresses if any other employees were given a holiday off and paid because of its close proximity to another holiday, that would also have to be considered a legal holiday for the purpose of this article, but that's all it really addresses. It speaks about holidays and nowhere in the contract does it say anything about snow days or snow emergencies or anything of that nature.

Commissioner Klein asked Union President Whitbread if he could read again what he said was put out by the Mayor's office. Union President Whitbread answered that it was put out by Elaine Ficarra from the Mayor's Office. Commissioner Klein asked Union President Whitbread to read it again. Union President Whitbread responded as follows, "City Hall and Board of Education offices will be closed, only essential City and BOE employees should report to work." Commissioner Klein asked aren't fire fighters essential City employees. Union President Whitbread responded, do the people in Admin go to fires, he didn't know. He knows that when they had emergencies, they weren't called in.

Commissioner Klein responded that Chief Petrucelli had a point, it was not a holiday and in the context of this provision in the contract, it's talking about holidays in addition to President's Day, Martin Luther King Day, Good Friday, etc., he didn't see that that fits within the provision of the contract that the Union was relying on.

Commissioner Klein motioned to deny the grievance; Commissioner Doris Garcia seconded and the Board passed it unanimously.

2. Local 834-Grievance 2011-14; FF Maurice Barnes, Article 5, Disciplinary Action.

Union President Whitbread represented that FF Barnes was on vacation and that he needed him to be there to explain the situation.

Commissioner Klein motioned to table the grievance; Commissioner Meszoros seconded and the Board passed it unanimously.

New Business

1. Communications:

a. Letter from Attorney David Morrissey re: Wanda McNeil.

Deputy Chief Petrucelli read the letter from Attorney Morrissey regarding Wanda McNeil, as follows: "He represents Wanda McNeil, widow of Walter McNeil. It was his understanding that the Commission was going to vote on the service connected death benefits for Mrs. McNeil at their meeting on September 15, 2010. He was under the impression that this had been granted, but apparently he was mistaken. He would appreciate letting him know the status of Mrs. McNeil's claim for widow benefits as a result of her husband's heart related death."

Associate City Attorney Mitola also received a letter from Attorney Morrissey and he reached out to him, but he needs a little more time to look into it. When he knows what the issue is then he will contact the Chief and will get it on the agenda because they weren't going to put it on the agenda every month until they have a resolution.

Deputy Chief Petrucelli responded that back in September it was taken off the agenda at the recommendation of Attorney Mitola because they were waiting the outcome of the Workers' Compensation claim.

No motion needed.

2. Commissioner Klein motioned to grant a Line of Duty Disability Pension Request to Lt Frank Mercaldi, effective 2400 hours, July 1, 2011 and refer to the Board of Trustees, Pension Plan B, for implementation; Commissioner Meszoros seconded and the Board passed it unanimously.

3. Commissioner Ana Garcia motioned to remove Retired PE James J. McCullough, deceased July 12, 2011, from the Firefighter's Pension list and refer to the Board of Trustees, Pension Plan A, for implementation; Commissioner Meszoros seconded and the Board passed it unanimously.

4. Local 834 – Grievance 2011-22; PE Michael Arthur, Article 5, Disciplinary Action.

Union President Whitbread represented that he contacted Chief Grace for information that he wanted to review on this case and unfortunately he was not able to pick it up in time and without reviewing it, he was not ready to go forward.

President Rosenberg asked if it was a termination and Union President Whitbread responded yes. Union President Whitbread stated that the Board may get a request for him to go directly up to the State depending upon what he sees in the transcripts. President Rosenberg responded that he was only trying to preserve his rights to bring it before the Board and Union President Whitbread thanked him.

Commissioner Meszoros motioned to table the grievance until August; Commissioner Klein seconded and the Board passed it unanimously.

5. Executive Session for attendance review of the following individuals:

a. FF Mark Bigard (B) – Executive Session Waived.

FF Bigard represented that he was feeling pretty good. At this point, he went for his multi check up on July 8, his doctor was on vacation, and the secretary would give the information to him as soon as possible and he would then fax to DC Grace as soon as it is received. He has one more procedure in August, which is a complete MRI, to assess how the treatment went and from there he is hoping to get back to work.

Commissioner Klein motioned to table to the August meeting; Commissioner Meszoros seconded and the Board passed it unanimously.

b. LT Joseph Southard (B) - Executive Session Waived.

LT Southard represented that he had a few tests and has to go back for more. He stated that he was feeling good.

President Rosenberg stated that the doctor's letter dated July 13 was very promising and on the basis of that letter he recommended the matter be tabled to September.

Commissioner Klein motioned to table to the September meeting; Commissioner Meszoros seconded and the Board passed it unanimously.

c. FF Darren Carroll (B)

Deputy Chief Grace represented that FF Carroll called the office and reported that he was ill and couldn't make it, but he did provide documentation. He hasn't done light duty yet. Hopefully, he could come to light duty before the next meeting, but he informed FF Carroll that if he didn't, he would be coming before the Board in August.

Commissioner Klein motioned to table to the August meeting; Commissioner Meszoros seconded and the Board passed it unanimously.

d. LT Marc Strickland (B) – Executive Session Waived.

Attorney Paul Daddario introduced himself on behalf of LT Strickland.

Attorney Daddario represented that the workers' comp case has been accepted, and there are voluntary agreements issued. The problem is that Lt Strickland has gone for a functional capacity evaluation which had to be put off due to hypertension issues. He was put on new medication and went back to his doctor for clearance to go to another functional capacity evaluation.

President Rosenberg stated that they were in receipt of a letter from the Orthopedic doctor stating that Lt Strickland should not return to work as a fire fighter. Commissioner Klein stated that the letter states that he has permanent light duty limitations, he has reached maximum medical improvement, he should not return to work as a fire fighter, he has permanent partial disability of 15% of the cervical spine; that was Dr. Sumner's letter dated July 11, 2011.

LT Strickland responded that he received that letter on the 14th, so he was surprised because he thought he would look for additional options for care in pain management and he hasn't had time to ask someone else seeing that it was less than 3 business days.

Commissioner Klein responded that the letter does not address issues of pain management or care options, but what was said is he can't do the job anymore.

LT Strickland stated that he has respect for his opinion, but he would like to try and take the functional capacity exam, he has a 17 year career in the Department and he had plans to have a full career with promotions in the future. A lot of the delays were caused by Berkley.

President Rosenberg stated that tonight was an attendance review and nothing was being acted on, that's number one because there is a procedure involved and that's up to the Department, however, this is very serious what the doctor put in his report, but he thinks what needs to be done is to have it tabled until next month so the proper procedures could be followed.

Commissioner Klein asked Attorney Daddario what his understanding was of when he would be physically able to take the functional capacity test.

Attorney Daddario responded that he thought he was cleared or will be cleared, at a point, based on new medication.

Lt Strickland stated that he sees his doctor on the 25th and he thought he might be approved to take the functional capacity exam after that.

Commissioner Klein stated that if he could get that functional capacity test done, that would be a good idea and he should discuss it with his attorney if he passed because he would be pulling a rug out from under his doctor's credibility, that might not be a good idea, he didn't know, that should be something that should be discussed.

Commissioner Klein motioned to table to August meeting; Commissioner Ana Garcia seconded and the Board passed it unanimously.

- e. LT Shane Porter (B) – Executive Session Waived.

LT Porter represented that he had shoulder surgery and he sustained a very bad injury.

Deputy Chief Grace stated that Lt Porter completed 90 days of light duty.

President Rosenberg read the report and stated that Lt Porter will be taking a functional capacity exam and the doctor seems very hopeful that he would be able to pass and return to full duty. Lt Porter responded yes. Lt Porter reported that the exam has not been scheduled as of tonight. Deputy Chief Grace responded that he would call Workers' Comp and see when that exam is going to take place.

Commissioner Klein motioned to table to the August meeting; Commissioner Meszoros seconded and the Board passed it unanimously.

- f. FF Autumn Waggoner (B) (Tabled until August)

6. Commissioner Ana Garcia motioned to accept the Report of Sick and Injury; Commissioner Meszoros seconded and the Board passed it unanimously.

7. Commissioner Meszoros motioned to accept the Payroll Register; Commissioner Ana Garcia seconded and the Board passed it unanimously.

- 8. Policy and Procedure review.
 - a. None

Chief Rooney reminded everyone that the Fire Department has the memorial service on Sunday, at 11:00 a.m., at Engine 7. He would really appreciate it if all the Commissioners could be there to show support for the families.

9. There being nothing further to come before the Board, Commissioner Meszoros motioned to adjourn the meeting; Commissioner Ana Garcia seconded and the Board passed it unanimously.

The meeting was adjourned.