

**August 17, 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, Commissioners Klein, Lee, Meszoros,  
Rodriguez and Fire Chief Rooney

Absent: Vice President Ana Garcia and Commissioner Doris G. Garcia

President Rosenberg represented that David Reiser arranged to receive a conference call at 6:45 from David Darst, Chief Investment Officer for Morgan Stanley. He then proceeded to explain that he wanted to call the roll for the Fire Commissioners, then adjourn the Fire Commission, convene Plan B, call the roll, adjourn Plan B and then go back into the regular Fire Commission meeting and when the call comes in they will be able to go into Plan B meeting.

Commissioner Meszoros motioned to adjourn the Board of Fire Commissioners' meeting at 6:01 p.m.; Commissioner Klein seconded and the Board passed it unanimously.

President Rosenberg asked to convene Plan B and call the roll.

Present: President Rosenberg, Trustees Meszoros, Lee, Klein, Rodriguez, Herlihy and Treasurer Morley,

Absent: Vice President Ana Garcia, Trustees Doris G. Garcia and Buck

Trustee Meszoros motioned to adjourn Plan B at 6:03 p.m.; Trustee Klein seconded and the Board passed it unanimously.

Trustee Meszoros motioned to reconvene the Board of Fire Commissioners' meeting at 6:04 p.m.; Trustee Klein seconded and the Board passed it unanimously.

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

Union Secretary/Treasurer Herlihy represented that Union President Whitbread was not present tonight and he would be representing the grievances.

Old Business

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

Union Secretary/Treasurer Herlihy represented that FF Barnes was notified to attend the meeting.

Commissioner Meszoros motioned to deny the grievance; Commissioner Rodriguez seconded and the Board passed it unanimously.

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

Union Secretary/Treasurer Herlihy represented that Grievance 2011-22 will be sent to the State level.

President Rosenberg requested that Wanda McNeil's request for a Line of Duty Widow's Pension be added to the Agenda.

Commissioner Klein motioned to add Wanda McNeil's request for a Line of Duty Widow's Pension to the Agenda; Commissioner Meszoros seconded and the Board passed it unanimously.

Associate City Attorney Mitola represented that FF Walter McNeil received a disability pension for heart and hypertension in November of 1999 and passed away in February 2010. His widow on November 17, 2010 petitioned this Board for a Line of Duty Widow's Pension and his Estate also filed a Workers' Compensation case. The Workers' Comp case is being handled by Attorney Frank May on behalf of the City.

The concern of the Office of the City Attorney was what effect the current comp claim had on whether or not the widow could receive the pension that she is seeking. After a review of medical records and the comp statutes, as well as Pension Plan B, they came to the conclusion that the pending workers' compensation case should have no affect on whether or not the widow is entitled to the pension. The language in Pension Plan B does not require the finding of a compensable claim under the Workers' Compensation Statutes in order for the widow, in this case, to be granted the pension disability that she is seeking. Associate City Attorney Mitola recommended that the widow be granted a Line of Duty Widow's Pension.

3. Commissioner Klein motioned to grant a Line of Duty Widow's Pension to Wanda McNeil, widow of retired Fire Fighter Walter McNeil, effective February 23, 2010; Commissioner Meszoros seconded and the Board passed it unanimously, and refer to the Board of Trustees, Pension Plan B, for implementation.

#### New Business

1. Communications:

- a. None.

2. Commissioner Klein motioned to remove Retired Fire Equipment Mechanic Thomas E. Gruler, deceased July 18, 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.

3. Associate City Attorney Mitola represented that he has been in contact with the McCullough family, and the widow's son will provide additional medical documentation and hopefully it will be on the agenda for next month.

Commissioner Meszoros motioned to table a Widow's Line of Duty Disability Pension request to Joan McCullough, Widow of Retired PE James J. McCullough, Commissioner Lee seconded and the Board passed it unanimously.

4. Commissioner Klein motioned to grant a Widow's Pension Request to Patricia E. Gruler, Widow of Retired FEM Thomas E. Gruler, effective July 19, 2011, and refer to the Board of Trustees, Pension Plan A, for implementation; Commissioner Meszoros seconded and the Board passed it unanimously.

5. Local 834-Grievance 2011-23; FF Josh Benderoth, Article 5, Disciplinary Action.

Union Secretary/Treasurer Herlihy requested that the grievance be tabled.

Commissioner Meszoros motioned to table Grievance 2011-23, FF Josh Benderoth to next month's meeting; Commissioner Klein seconded and the Board passed it unanimously.

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

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

FF Bigard reported he was feeling better and is scheduled for an MRI in September.

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

b. FF Autumn Waggoner (B) – Light duty completed; on maternity leave.

c. FF Darren Carroll (B) – On light duty effective August 16, 2011.

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

Paul Daddario introduced himself as Lt Strickland's attorney.

President Rosenberg stated that based on the letter received from the treating physician Dr. Sumner, it appeared that, in his opinion, Lt Strickland can no longer do the duties of a Fire Fighter.

Lt Strickland represented that yes; it was Dr. Sumner's opinion. He respectfully would like to try to prove otherwise and has been approved to take the functional capacity exam and is waiting for a date.

President Rosenberg responded that he didn't think it would be fair or right of this Board based on Dr. Sumner, he thought it would be dangerous for him to do the work anymore and it would also be dangerous for the people who would be working with him. He didn't know how in good conscious, there was not much choice, based on the doctor's report. He understood that he could be of a different opinion, but they have to go by the doctor's opinion.

President Rosenberg recommended that Lt Strickland retire or the Board would have to retire him. If he put his papers in, it is customary to give two weeks. President Rosenberg further stated that even if Lt. Strickland could pass a functional test, they had a doctor's letter stating that he was not suitable for active duty as a fire fighter.

Commissioner Klein read from the doctor's report stating that it said "you should not return to work as a fire fighter."

President Rosenberg stated that it would be wrong for them to go against his own doctor's opinion and also it would be wrong for him and the other firefighters that he works with and the public.

Commissioner Lee asked if that test, if taken, would it have a different opinion from his own doctor.

Lt Strickland responded that the test is suppose to recreate what you would be doing in the Department and he would like to try to take it and prove otherwise.

President Rosenberg stated that he didn't think the results of the test could prove otherwise because if he could pass the test, they can't go against what the doctor is saying. The doctor is saying medically and it is not suitable to go further as a fire fighter.

Commissioner Klein stated that it would seem that Lt Strickland might be running the risk of further injury just by taking that test.

Attorney Daddario responded that he thought the test would still happen for workers' compensation reasons anyways.

President Rosenberg stated that Lt Strickland had an exemplary career and this is not a reflection on his career. He has been a great asset to the Fire Department. Even if he took the test and passed, the evidence here as far as his suitability to continue on as a fire fighter doesn't change, it wouldn't change what the standard is for the Fire Department.

Lt Strickland wanted the chance to take a functional capacity test.

Commissioner Klein wanted Lt Strickland to know that it is no reflection on what anyone here thinks of his career it is only a reflection of the unfortunate physical facts that are presented to them and they do not take any joy in ending a career this way, he wished he would do it voluntarily, but he thought in the face of this, he motioned to retire Lt. Strickland with a Line of Duty Disability Retirement effective September 2, 2011; Commissioners Meszoros and Rodriguez motioned in favor of the motion; Commissioner Lee abstained. The motion stands as granted.

Deputy Chief Petrucelli gave Lt Strickland a Notice Regarding Disability Retirement signed by President Stuart Rosenberg.

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

Lt Porter represented that he is in a work hardening program and is feeling pretty good and his next doctor's appointment is September 7, 2011. Deputy Chief Grace stated that he completed his 90 days light duty.

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

f. FF Brian Walker (B) – Full duty effective August 5, 2011

g. Capt John Mazza (B)

Commissioner Klein motioned to go into executive session at 6:33 p.m.; Commissioner Meszoros seconded and the Board passed it unanimously.

Commissioner Meszoros motioned to end executive session at 6:35 p.m.; Commissioner Klein seconded and the Board passed it unanimously.

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

h. LT Scott Boris (B) – Executive Session Waived

President Rosenberg asked Lt Boris if he did light duty and his response was that he didn't, but anticipated next week after seeing his doctor.

Lt Boris represented that he had a set back after surgery but was now moving along.

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

7. Commissioner Klein motioned to accept the Report of Sick and Injury; Commissioner Rodriguez seconded and the Board passed it unanimously.

8. Commissioner Meszoros motioned to accept the Payroll Register; Commissioner Klein seconded and the Board passed it unanimously.

9. Policy and Procedure review.  
a. None

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

The meeting was adjourned at 6:40 p.m.