

October 26, 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 6:02 p.m. and led the Pledge of Allegiance to the Flag.

Present: President Rosenberg, Vice President Ana Garcia,
Commissioners Klein, Meszoros and Fire Chief Rooney

Absent: Commissioners Doris G. Garcia, Lee and Rodriguez

Old Business

1. Entertain a motion to grant a Widow's Line of Duty Disability Pension request to Joan McCullough, Widow of Retired PE James J. McCullough; effective July 13, 2011 and refer to the Board of Trustees, Pension Plan A, for implementation.

Associate City Attorney John Mitola represented that he has not received additional medical documentation requested from the family. Last month the widow was granted a regular widow's pension and he suggested that it be taken off the agenda until they hear further from the family. Attorney Mitola will call the family and ascertain if they are still pursuing the request.

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

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

Chief Rooney represented that Union President Whitbread called and asked that the matter be tabled to next month. Chief Rooney had no objection.

Commissioner Klein motioned to table the Grievance to next month; Commissioner Meszoros seconded and the Board passed it unanimously.

3. Local 834-Grievance 2011-24; LT Marc Strickland, Retirement Benefits.

Chief Rooney represented that Union President Whitbread called and asked that the matter be tabled to next month. Chief Rooney had no objection.

Commissioner Klein motioned to table the Grievance to next month; Commissioner Meszoros seconded and the Board passed it unanimously.

New Business:

1. Communications:
 - a. None.
2. Commissioner Meszoros motioned to remove Retired Assistant Chief Albert J. Fildes deceased September 17, 2011, from the Firefighter's Pension list and refer to the Board of Trustees, Pension Plan A, for implementation; Commissioner Ana Garcia seconded and the Board passed it unanimously.
3. Commissioner Meszoros motioned to grant a Widow's Pension request to Amelia Fildes, Widow of Retired Assistant Chief Albert Fildes, effective September 18, 2011 and refer to the Board of Trustees, Pension Plan A, for implementation; Commissioner Ana Garcia seconded and the Board passed it unanimously.
4. Commissioner Meszoros motioned to grant a Line of Duty Disability Pension Request to Provisional Captain Steven McSperrin, effective 0800 hours, October 22, 2011 and refer to the Board of Trustees, Pension Plan A, for implementation; Commissioner Ana Garcia seconded and the Board passed it unanimously.
5. Entertain a motion to grant permission for Bruce Toth to Address the Board Regarding his Disability.

Deputy Chief Petrucelli represented that there was a letter from Mr. Toth requesting to speak to the Board.

Bruce Toth represented that he retired off the job early. He got a few jobs and was unable to lift anything and everything was getting worse for him.

Chief Rooney represented that Bruce Toth did not retire, he resigned. Mr. Toth stated that he filled out a lot of papers for retirement. Chief Rooney stated again that he didn't retire, he resigned. He was going to be disciplined that evening and instead of that, he chose to resign. He was going to be terminated. He asked Mr. Toth if he recalled that. He responded no, not really. Chief Rooney asked if he wanted to put this in executive session so they could remind him.

Mr. Toth stated that he was in the Fire Department for 11 years. President Rosenberg stated that he resigned at that point and thought that 3 years later the Board doesn't have the authority to do anything for him.

Commissioner Klein asked if he had a question or did he want to get it off his chest. Mr. Toth responded that he came to see if he could get his disability. He stated that he will take them to Court and sue them; he was going to sue 6 lawyers that did nothing for him. President Rosenberg stated that they would go to the next item.

6. Entertain a motion to Reconsider Grievance 2011-25 Re: Probationary Assistant Chief Robert Morton.

Attorney Mitola stated that last month the Board heard a grievance brought by the Union on behalf of Probationary Assistant Robert Morton pursuant to Article 5, Disciplinary Action and that matter involved certain behavior that Assistant Chief Morton allegedly engaged in over at the Bridgeport Public Safety Communication Center and it was his understanding that after it was investigated the Chief gave him a hearing and after the hearing, the Chief ordered a one day suspension and ordered that Assistant Chief Morton attend anger management training.

The Chief also, which he's within his right to do this under the City Charter, went to the Civil Service Commission and requested that Assistant Chief Morton's probationary period be extended for six months. Assistant Chief Morton is currently in the probationary part of his position as Assistant Chief and Chief Rooney requested that he be able to further assess whether or not he would be able to do the job as an Assistant Chief and requested that the probationary period be extended.

After the Board heard the matter, it was his understanding that the Board overruled that decision by the Chief and nullified the 6 month extension of the probationary period. After that his office was asked to look into whether or not they, as the Commission, had the authority to do that. After he looked into it, it was determined that they didn't have the authority to overrule the Chief with respect to extending the probationary period. The reason why is that under the Bridgeport City Charter, Section 213, Department heads including Chief Rooney, have the absolute authority based on their discretion if they feel it necessary to go to the Civil Service Commission, the Personnel Director and request that probationary period be extended. The Department head doesn't have the unilateral right just to do that, he has to get the permission of the Civil Service Commission and the Personnel Director to do that, so there is a checks and balances available and that is what the Chief did. Based on his position as the manager of the Department, he felt that he needed the additional time to assess whether or not Assistant Chief Morton could do the job. The Union brought this grievance under Article 5 which is attached to the letter. Article 5 deals with discipline and it says specifically that "Disciplinary action be removal, dismissal, being discharged from the Department, suspension, fined, reduced in rank or warned either in writing or orally." That's what discipline is and the Department Head extending somebody's probationary period isn't discipline as defined in Article 5 and he didn't think it was discipline defined under any reasonable interpretation of Labor Law. Assistant Chief Morton hasn't lost anything. In other words, he didn't lose pay by extending the probationary period, he still is Assistant Chief, he doesn't lose any seniority because his seniority date relates back to the date he was actually promoted, so that doesn't affect him and he hasn't lost any other benefits. So, it is not discipline, so if it is not discipline under Article 5 of the Collective Bargaining Agreement, you can't overrule that based on the grievance brought by the Union.

He gave everyone the legal opinion and what is on the Agenda tonight is for the Board to entertain a motion to reconsider the grievance and what he was asking them to do in fairness to the Union because they were not at the meeting is they could vote to reconsider the grievance tonight and then it would be on the agenda for next month with the Union here.

Commissioner Klein responded that there was no point in reconsidering if he was telling them their actions were null and void. President Rosenberg stated that there were two parts to the grievance, there is a part of the grievance that is discipline which is what they upheld and the probationary period is what he is saying they have no authority, first of all to act without Assistant Chief Morton here or Union representation would be wrong.

Attorney Mitola responded that they could do nothing, but their action with respect to probationary period would be null and void. Attorney Mitola stated for the record that when the matter was brought to the Civil Service Commission, at the Chief's request, to extend the probationary period, the Union was on notice that that was happening and so was Assistant Chief Morton. They did not show up. They were aware that the Chief was taking this action, so he wanted to make that clear.

President Rosenberg stated that the fact that action of this Board was nullified, he doesn't know why they need to do anything on this. Attorney Mitola responded that there were two things they could do, they don't have to do anything and Commissioner Klein responded that they don't have the authority to reconsider. Chief Rooney stated that they would be bringing this to the State Labor Board anyway. President Rosenberg stated that the best thing would be not to act on it at all.

Commissioner Klein stated that he didn't think it was appropriate to do anything except maybe to send a letter to Assistant Chief Morton and the Union telling them that they acknowledge that based on the advice of the City Attorney that their action was null and void, so there is something in writing. Attorney Mitola to send letter.

7. Executive Session for attendance review of the following individuals:
 - a. FF Mark Bigard (B) – On full duty with no restrictions as of October 10, 2011.
 - b. LT Scott Boris (B) – On full duty with no restrictions as of September 26, 2011.
 - c. FF Regina Scates (B) – Executive session waived by Attorney Morrissey on behalf of FF Regina Scates.

Deputy Chief Petrucelli responded that FF Scates originally went off duty with a thumb injury on March 21, 2011. She did a portion of her 90 days light duty before she had surgery on her left thumb and then on August 23 she had the surgery. She was released for light duty several weeks after that and returned to finish her 90 days light duty and at the completion of her 90 days which was October 13, she went back off on injury leave and that was the last update that he had and that was the reason why she was asked to come tonight. He just received this evening an update from her doctor provided to him by her attorney which indicates that she will be able to return to regular work 90 days from the date of her surgery which would be November 23, 2011.

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

Commissioner Klein questioned the two most recent entries, individuals with head colds. He asked if they were back to work. Deputy Chief Petrucelli answered that if they are still on the list, no they are not, they are still out. Commissioner Klein questioned being out a full week with a cold or if they went to a doctor. Chief Rooney responded that they would look into it.

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

10. Policy and Procedure review.

a. Chief Rooney represented that there are none at this time, but the Department is updating SOP's.

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

The meeting was adjourned at 6:25 p.m.