

May 16, 2012
Regular Meeting Board of Fire Commissioners

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 Lee, Meszoros and Rodriguez

Absent: Commissioners Doris G. Garcia and Klein

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

Old Business:

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

Union President Whitbread reported that he is trying to get a meeting together with Phil White, Labor Relations. The grievance should be tabled.

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

2. Entertain a motion to Grant a Pro rata Pension Request to former FI Frank Gerardi, (Terminated 1/25/08), effective February 7, 2012, and refer to the Board of Trustees, Pension Plan B, for implementation.

Union President Whitbread represented that Frank Gerardi was not at the meeting.

Attorney Mitola informed the Board that Frank Gerardi's appeal is still pending.

Commissioner Lee motioned to table a Pro rata Pension Request to Former FI Frank Gerardi, (Terminated 01/25/08), effective February 7, 2012; Commissioner Meszoros seconded and the Board passed it unanimously.

3. Entertain a motion to change the status of Kathryn Serca's Widow's Pension to a Line of Duty Disability Widow's Pension, effective August 20, 2010, and refer to the Board of Trustees, Pension Plan A, for implementation.

Attorney Mitola represented that he is still receiving information from the family and recommended the matter be tabled.

Commissioner Meszoros motioned to table the request for change of status of Kathryn Serca's Widow's Pension to a Line of Duty Disability Widow's Pension; Vice President Ana Garcia seconded and the Board passed it unanimously.

4. Commissioner Meszoros motioned to grant a Line of Duty Disability Pension request to FF Brian Walker, effective March 30, 2012, and refer to the Board of Trustees, Pension Plan B, for implementation; Vice President Ana Garcia seconded and the Board passed it unanimously.

New Business:

1. Communications:

a. None.

2. Commissioner Meszoros motioned to remove Retired FF Alexander J. Bike, deceased April 23, 2012, from the Fire Fighter's Pension list and refer to the Board of Trustees, Pension Plan A, for implementation; Commissioner Lee seconded and the Board passed it unanimously.

3. Commissioner Meszoros motioned to remove Retired FF Raymond P. Mazzucco, deceased April 12, 2012, from the Fire Fighter's Pension list and refer to the Board of Trustees, Pension Plan A, for implementation; Vice President Ana Garcia seconded and the Board passed it unanimously.

4. Local 834-Grievance 2012-6; LT Kevin Shevlin, Article 5, Disciplinary Action.

Union President Whitbread represented that Lt Shevlin was not present and that he was moving the grievance to the State. He asked to waive the time frames.

Chief Rooney represented that it had to go to Labor Relations from now on. Phil White reported that the Office of Labor Relations will not agree to waive time lines.

Union President Whitbread represented that he was moving it to the State anyway.

5. Local 834-Grievance 2012-7; FF Zygmunt Mysliwiec, Article 5, Disciplinary Action.

Union President Whitbread represented that FF Mysliwiec was not present and that he was moving the grievance to the State.

6. Revisit Local 834-Grievance 2012-3; FF Greg Daly, OT hours.

President Rosenberg represented that Chief Rooney requested that they revisit the grievance.

Attorney Mitola represented that any Commissioner that voted in the affirmative at last month's meeting may take part revisiting the grievance tonight and a motion needed to be made.

Commissioner Meszoros motioned to revisit Grievance 2012-3; FF Greg Daly; Commissioner Rodriguez seconded and the Board passed it unanimously.

Labor Relations Officer Phil White introduced himself and represented that Chief Rooney asked him to look into this and at the last meeting he commented that under the Fair Labor Standards Act, time that is not worked but is paid as holiday pay, vacation time, injury leave, does not go into the calculation of overtime hours. The Chief asked him to re-examine and look over very carefully at the situation and he did, and this is what he found:

First of all, if you go back to the very grievance, the grievance was not specifically about pay. It was that FF Daly was called in to work in excess of his regularly scheduled hours and he was called in to work light duty, he had been injured some time before that. So it's about the practice of bringing him in to work in excess of his hours. The remedy that they are asking for is to stop that practice and then to make him whole which would be pay, so pay is part of the remedy. Article 6 of the contract allows the Union a very generous 90 day time frame to file a grievance. Certainly when he was called in on December 6, 2011, he knew he was called in and it wasn't his normal work day that started the clock there, 90 days later would have been approximately March 3rd or 4th. The Union filed their grievance on March 9, so it was filed late beyond what the contract called for. It was filed on the 94th day and it was received by the City on the 94th day. That is point one.

Point two; he was compensated for the time that he worked. He was compensated. It really brings us to the issue of pay and he did some research on CT General Statutes and the Federal Statutes, Fair Labor Standards Act, both of which he had copies for them tonight, both say you don't count injury time, it is specifically excluded by statute in the calculations. So, from a payroll point of view, his argument would be it looks like he was properly compensated. He was not due the time and a half. Therefore, he thinks the Chief's request for reconsideration has some merit. It looks like the grievance should be properly denied.

Chief Rooney represented that he never paid anybody overtime for light duty. He never saw that happen.

Union President Whitbread responded that Phil White was incorrect about the date being late. The contract clearly states that when they are aware that your rights have been violated, he did not know he wasn't going to get paid and not paid until after the next pay period when that money should have been in it. Number one is out. Two, they don't work under Fair Labor Standards. They have a contract that says in excess and you can write your contract and not be held to those standards. Those standards are held if you're working under that and you're correct if that was the case and it was in their contract that they have to abide by that, they have a pay period marked out and that could be anywhere from a week to a 28 day period and in that 28 day period using that as an example, any time he takes off goes against his normal hours.

Union President Whitbread stated that Chief Rooney is not a member of this Board. This is on the Agenda and shouldn't be because to revisit it has to be made by a motion here. That was already done after a person requested it to be revisited that has no right to make that request. He'll say the same thing again as he said the last time, his contract very clearly states that anything in excess of your normal work hours or work week will be overtime, it doesn't exclude or carve out anything.

President Rosenberg responded that this Board has revisited issues before.

Attorney Mitola represented that there is nothing inappropriate with reconsidering Board action at the next meeting, and that's exactly what you're doing here. Even if you haven't done it, if there is new information that wasn't presented, the Commission can reconsider its action.

Commissioner Lee asked why the information wasn't provided last month. Phil White responded that the Chief asked him to look at it; he made the comment last month about the Labor Standards Act, but notwithstanding that, the Chief thought it wasn't adequately represented and he asked him to look at it again.

Attorney Mitola commented that the Board by its actions by granting the motion to reconsider what is before you right now is the grievance just like it was last month and you could hear the entire grievance, ask questions of Mr. Whitbread about the grievance and what his position is, it's as if this is the first time the grievance comes before you, that's what the motion to reconsider when it's granted causes. The matter is before you again.

Commissioner Rodriguez asked the contract that is written with the City in respect to issues such as this will supersede any of that stuff. Is that something that is correct.

Phil White responded that he would ask the attorney, does the Collective Bargaining Agreement supersede State and Federal law.

Attorney Mitola responded that he thought it could in some instances; but wasn't 100% sure in this case. He could look into it. Commissioner Rodriguez responded that he thought the Board last month was totally in agreement that they did not think that the contract was fair to the Department per se and because of the way the contract is written was the only reason this Board approved it. President Rosenberg said maybe they should ask for a legal opinion.

Union President Whitbread represented that this issue was brought up in current negotiations and it was rejected.

Commissioner Rodriguez motioned to table to June meeting pending a legal opinion from Attorney Mitola; Vice President Ana Garcia seconded and the Board passed it unanimously.

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

a. LT Paul Neugebauer (B) – Executive Session Waived.

Lt Neugebauer stated that his doctor has him totally disabled and the next appointment is June 6. He is doing physical therapy.

Commissioner Meszoros motioned to table to June meeting; Commissioner Rodriguez seconded and the Board passed it unanimously.

b. CAPT Paul Cocca (B) – Executive Session Waived.

Captain Cocca reported that he was doing good and advancing per documentation he provided and does plan on returning to work. His last job was as Chief Rooney's Aide.

President Rosenberg asked if he considered the option of retiring. Captain Cocca's response was he really didn't think about it.

President Rosenberg asked if he was thinking of returning to that position, as Chief's Aide. Captain Cocca responded that he would like to return to full duty, on the line. It's feasible in the future.

Commissioner Meszoros reported that he looked on the computer and located a New Jersey Fire Fighter amputee, that young man was with the Department for five years and he was an amputee before going on the job. Commissioner Meszoros stated that he would like to see Captain Cocca return to the Bridgeport Fire Department.

Commissioner Rodriguez asked if the doctor gives any time frame.

President Rosenberg stated that an IME would be beneficial to Captain Cocca and the Department.

Union President Whitbread responded that it was not a situation to do an IME at this time.

President Rosenberg said that it takes anywhere from 30 to 60 days to schedule an IME. He felt that it was in the best interest of the Captain and the Department that's what they need.

Union President Whitbread stated that it is too early in the process to send him for an IME. Deputy Chief Grace read from a medical report and stated that he hasn't reached his maximum medical improvement; it will most likely take 6 to 8 weeks of training/therapy.

Commissioner Meszoros motioned that Captain Cocca will go for rehab/therapy for the next three months and table this again and revisit in August 2012; Commissioner Lee seconded and the Board passed it unanimously.

c. FF Kyle Kochiss (B) – On Duty as of 5/10/12.

d. PE John Ehnot (B) – Executive Session Waived.

PE Ehnot represented he was over 8 weeks post operative and coming along. He has had some pain for last couple of weeks.

Commissioner Rodriguez motioned to table to the June meeting; Commissioner Meszoros seconded and the Board passed it unanimously.

Union President Whitbread represented that PE Ehnot was brought in prior to being out 90 days. Deputy Chief Grace said 3 months, not 90 days. Union President Whitbread's concern was that today is a couple of weeks short.

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

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

10. Policy and Procedure review:

a. None.

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

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