

June 20, 2012
Regular Meeting Board of Fire Commissioners

President Rosenberg called the meeting to order at 6:05 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 Vice President Ana Garcia motioned to dispense with reading the minutes of the previous meeting; Commissioner Lee 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 did not have any news.

Commissioner Meszoros 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.

Attorney Mitola informed the Board that Frank Gerardi's appeal is still pending as far as he knew.

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

Union President Whitbread requested a copy of the litigation.

3. Commissioner Lee 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; Commissioner Meszoros seconded and the Board passed it unanimously.

Attorney Mitola represented that he was still obtaining information and should have something next month.

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

Attorney Mitola represented that the Commissioners requested a legal opinion as to whether or not the Wage Act pre-empted the CBA. He requested it be tabled to next month.

Vice President Ana Garcia motioned to table Grievance 2012-3; Commissioner Lee seconded and the Board passed it unanimously.

New Business:

1. Communications:

- a. None.

2. Commissioner Rodriguez motioned to remove Retired FF James E. Marsh, deceased May 22, 2012, 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. Commissioner Meszoros motioned to grant a Widow's Pension request to Mildred E. Marsh, widow of Retired FF James E. Marsh, effective May 23, 2012 and refer to the Board of Trustees, Pension Plan A, for implementation; Commissioner Lee seconded and the Board passed it unanimously.

4. Commissioner Meszoros motioned to grant a Regular Pension Request to A/C Thomas Connor, effective May 26, 2012 and refer to the Board of Trustees, Pension Plan A, for implementation; Commissioner Lee seconded and the Board passed it unanimously.

President Rosenberg stated that A/C Thomas Connor served with honor and distinction.

5. Entertain a motion to grant a Widow's Line of Duty Disability Pension Request to Joan McCullough, effective July 13, 2011 and refer to the Board of Trustees, Pension Plan A, for implementation.

Attorney Joyce Riccio introduced herself and stated that she was representing Joan McCullough who is James McCullough's widow. This matter was tabled in order for her to provide more information. They were able to provide more information, but there is a period where the records have been destroyed. They have been trying to get the records but the hospital destroyed the records because they're so old and his former doctor does not have the records either. Mr. McCullough was granted the disability pension because of heart and hypertension and she believes that the request for the widow's line of duty disability pension should be granted. She doesn't know what other documentation could be provided. The death certificate shows he died from cardiovascular disease. Attorney Riccio requested that the request for this disability pension be approved.

Attorney Mitola stated back in November he submitted a memo in detail that sets forth at least some of the questions and he believes the Commission denied the request without prejudice in the event that some additional information was forthcoming. The information they have is that Mr. McCullough passed away on July 12, 2011. Immediate cause of death was cardio respiratory arrest coronary heart disease and it says in the death certificate that he had those conditions for years. In 1989 the Board granted a line of duty disability that he was seeking because of his heart condition. The medical records that they have are unclear with respect to exactly what his condition was in 1989 when he retired.

The other course they have not pursued is there apparently was a workers' compensation case that was filed. A review of that file may shed some light on what condition he suffered from in 1989. That would require us to go back and try to dig up some records from outside counsel.

President Rosenberg said that based on all the evidence that they have that the Workers' Compensation information would be very relevant to a finding by this Board. He suggested it be tabled until they have that information. Attorney Mitola would contact the attorney that handled the workers' comp case.

Commissioner Lee asked if the workers' comp would tell us if it was a heart condition.

Attorney Mitola responded that he thought the Workers' Compensation file might show from 1989 a specific condition that had that caused him to seek his disability retirement. If the documents show that he sought a disability retirement because of hypertension which is different from heart disease then the widow is probably not entitled to the pension, but it may shed some light on what medical condition he had at that time.

Attorney Mitola stated that he wanted to provide the information to the Board so they could make an informed decision.

Attorney Riccio represented that Mr. McCullough's daughter believes that the Workers' Comp was due to a neck injury so the workers' comp may not provide any information.

Attorney Riccio had a list from 1997, a retirement list and on the list is James McCullough and it shows retirement reason, heart and hypertension.

Commissioner Meszoros motioned to table to next month the request for a Widow's Line of Duty Disability Pension to Joan McCullough, pending information from the Workers' Compensation file; Vice President Ana Garcia seconded and the Board passed it unanimously.

6. Executive Session for attendance review of the following individuals:
 - a. LT Paul Neugebauer (B) – Full duty, no restrictions, as of June 19, 2012.
 - b. CAPT Paul Cocca (B) – (Tabled until August)
 - c. PE John Ehnot (B) – Executive Session Waived.

President Rosenberg asked if PE Ehnot did his light duty. He responded he has not done his light duty and he is not cleared for it. He is doing what they tell him to do.

Commissioner Lee asked what light duty consisted of and Deputy Chief Grace responded that the Department can accommodate light duty with restrictions as provided by the care provider.

Commissioner Rodriguez referred to June 11 letter and his concern was has the condition worsened or is it better and is he able to do light duty. The letter doesn't really say it.

Deputy Chief Grace stated that the questions are very simple and it wasn't addressed on the June 11th letter.

Commissioner Lee stated that she thought the Pumper Engineer should be able to tell us if he is better or worse.

President Rosenberg stated that according to his record he's been on the job since 1988 and total of 419 work days off. Deputy Chief Grace reported that PE Ehnot started in 1989 and the records started in 1990. Total work days off are 419. PE Ehnot responded that the knee surgeries were line of duty. Deputy Chief Petrucelli stated there were 180 work days in a year.

Commissioner Lee suggested he go on light duty. Commissioner Rodriguez concern was he would appreciate if they could get for the Department an updated letter from his doctor to be submitted as soon as possible answering those questions if he's able to do light duty. It is imperative to put pressure upon his doctor to answer the questions.

President Rosenberg suggested an IME be scheduled. Union President Whitbread stated that he thought they were there for his current issue, attendance review. Commissioner Lee responded that 419 days is a lot of days and it seems to her that he doesn't even want to do light duty.

Commissioner Rodriguez stated that it falls upon PE Ehnot to bring the clear letter to this Board of what's actually cooking. He needs clarification from the doctor. PE Ehnot responded that he had three line of duty knee surgeries. Vice President Ana Garcia stated that it should be addressed by PE Ehnot when he goes to his doctor tomorrow. PE Ehnot responded that he will ask his doctor to more accurately address the questions.

Commissioner Meszoros motioned to table to July meeting and PE Ehnot is to obtain proper documentation and have the four questions answered; Vice President Ana Garcia seconded and the Board passed it unanimously.

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

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

9. Policy and Procedure review:

a. Chief Rooney announced that Renee DelPercio was retiring and this was her last official Commissioner's meeting.

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

The meeting was adjourned at 6:50 p.m.