

January 7, 2010

A Regular Meeting of the Board of Fire and Police Commissioners was held on the above date, commencing at 5:40 P.M.

PRESENT: Commissioners: Richard C. Cox, Chair  
Carolina M. Stark  
Kathryn A. Hein  
Sarah W. Morgan

ABSENT: Commissioner: Paoi X. Lor (Excused)

ALSO PRESENT: Michael Jones, Acting Chief, Milwaukee Fire Department; and Edward Flynn, Chief, Milwaukee Police Department.

The Chair reconvened the Board in Regular Session, having previously met in Executive Session from 4:45 p.m. to 5:30 p.m. pursuant to Section 19.85 (1)(g) Wis. Stats. to confer with a representative of the City Attorney's Office who will render oral or written advice concerning strategy to be adopted by the Board with respect to litigation in which it is or is likely to become involved, to wit: Crivello vs. City of Milwaukee; and Section 19.85 (1)(c) Wis. Stats. to consider employment, promotion, compensation or performance evaluation data of any public employee over whom the Board has jurisdiction or exercises responsibility to wit: promotion of Inspector of Police to Assistant Chief of Police.

The Director stated the Board has approved the settlement in Crivello vs. City of Milwaukee by a unanimous vote. The settlement approves back pay and a revised date for promotion to Detective.

The Director presented for adoption minutes of the Regular Meeting of December 17, 2009. He noted at the previous meeting the Eligible List for Fire Lieutenant and 2010 furlough guidelines for the Police Department were approved. Commissioner Stark moved approval of the minutes as presented, seconded by Commissioner Morgan. The motion carried unanimously.

1. UNFINISHED BUSINESS:

a) The following promotion, as presented by Chief Edward Flynn, was approved by the Board:

TO ASSISTANT CHIEF OF POLICE, from Inspector of Police, contingent upon successful completion of a drug screening, effective January 10, 2010:

EDWARD LIEBRECHT.

b) The Director returned to the Board a request from the Police Department to reclassify sixty-nine (69) positions of Lieutenant of Police and Lieutenant of Detectives to Police Lieutenant. In a report dated January 4, 2010, Maria Montegudo, Director of the Department of Employee Relations (DER), recommends that in the Salary Ordinance, under Pay Range 836, delete the titles "Lieutenant of Police" and "Lieutenant of Detectives" and add the title "Police Lieutenant."

The Director stated that an hour prior to the meeting he received a fax from Thomas Klusman, President of the Milwaukee Police Supervisors Organization (MPSO), which asked for an adjournment of this item to a later date because he has not had sufficient time to respond to the reclassification report. The Director advised the Board to go ahead with the item because it is in accordance with the MPSO contract. If the item is approved, then the MPSO may have the right to further discuss implementation of the reclassification.

Andrea Knickerbocker, Human Resources Manager of DER, thanked staff of the Fire and Police Commission and the Police Department for assisting with the research and development of the report. Her study has shown there is sufficient comparability between the duties and responsibilities of the

ranks of Lieutenant of Police and Lieutenant of Detectives to combine them into one rank of Police Lieutenant. A survey was conducted of different jurisdictions, and of those that responded most have a one rank structure. This recommendation will allow the department to cross-train and cross-promote current Lieutenants in Neighborhood Policing and the Criminal Investigation Bureau. It will allow members to diversify their career tracks and gain expertise in technical investigation, management, and supervision. The report includes a list of transition issues, and a successful transition depends on thoughtful implementation of the process.

Mark Buetow, President of the Milwaukee Police Association (MPA), stated the MPA has the rank of Detective under their bargaining contract and wants to ensure that current Detectives are not on a dead-end career path with the recommended combining of the Lieutenant ranks.

Commissioner Stark asked if the promotional path for current Detectives will be affected with the proposed reclassification. Chief Flynn replied the first goal is to create one Lieutenant rank to avoid having two different police departments with two different chains of command. There will be ongoing discussions with the MPA and the MPSO as the plan is implemented. Currently there are two eligible lists: the Lieutenant of Police Eligible List which expires on May 15, 2010, and the Lieutenant of Detectives Eligible List which expires on January 22, 2011. The goal is not to have dead-end ranks. The department will work with DER to put everyone on a level playing field, and it is important to integrate these two bureaus of the department.

The Director stated the three main issues with implementation are the status of the current eligible lists, cross-training of those in current positions, and developing a single test for the new rank of Police Lieutenant.

The Chair stated the process of determining who is eligible for promotion will be part of the implementation phase. Commissioner Stark moved approval of the reclassification report, seconded by Commissioner Hein. The motion carried unanimously.

c) The Director returned to the Board a letter dated December 10, 2009, from Chief Flynn, wherein he requests approval to rescind Milwaukee Police Department Rule 005 – Absence in its entirety, and revise Milwaukee Police Department Standard Operating Procedure 010 – Absence. This action would consolidate all the rules and procedures regarding absences into one place, and would tighten up some of the policies for sick leave. For example, it would give supervisors the authority to conduct home visits, require doctors excuses, and change the policy for members calling in sick. Commissioner Hein moved approval of the request, seconded by Commissioner Morgan. The motion carried unanimously.

d) The Director returned to the Board a memorandum from Police Department Chief of Staff Judy Pal regarding changes to the Department Organizational Chart to reflect the changes adopted in the 2010 Budget. The changes eliminate the Safety Division and merge it with the Community Services Division. The Community Services Division will be moved under the Professional Standards Bureau. The department is currently working on an implementation plan. Commissioner Stark moved approval of the changes, seconded by Commissioner Hein. The motion carried unanimously.

e) The Director announced that the review of the removal from the Fire Lieutenant Eligible List would be moved to the end of the agenda.

f) The Director returned to the Board a request from the Fire Department to classify two new positions of Community Education Specialist. In a report dated January 4, 2010, Maria Monteagudo, Director of the Department of Employee Relations (DER), recommends in the Salary Ordinance, under Pay Range 530, add the title "Fire Education Specialist," a title different from that requested, and in the Positions Ordinance, under Fire Department, Supporting Services Decision Unit, Instruction and Training Bureau, delete two positions of "Community Education Specialist" and add two positions of "Fire Education Specialist."

Ms. Knickerbocker of DER spoke regarding the recommendations. The Fire Department requested a Salary Grade 04, which is a management position, but DER is recommending a Pay Range 530 which is a represented position. This decision was based on the duties, responsibilities, and level of responsibility of the position.

In response to a question from Commissioner Stark, Ms. Knickerbocker stated the education requirements will be assessed at the time of recruitment. Typically in this type of position a Bachelor's Degree or some type of degree and experience is required. The job description stated the knowledge and skills, but the required education will be determined by the staffing division. It will likely be a Bachelor's Degree or comparable experience. Maria Monteagudo stated the minimum education requirements will be on the examination announcement bulletin which will come before the Board for approval.

Commissioner Hein moved approval of the classification request, seconded by Commissioner Morgan. The motion carried unanimously.

## 2. EXAMINATIONS:

a) The Director presented a request to extend the Police Officer Eligible List from its expiration date of January 10, 2010 to September 30, 2010. The Police Department received a COPS grant to hire fifty (50) new officers. There are currently forty-four (44) candidates on the eligible list who have passed all portions of the testing process and approximately twenty-five (25) Police Aides who will be eligible for appointment to Police Officer. Extending the list will accommodate the COPS grant class in the summer of 2010. Commissioner Hein moved approval to extend the Police Officer Eligible List, seconded by Commissioner Morgan. The motion carried unanimously.

## 3. FIRE DEPARTMENT:

a) The Director presented a letter dated December 30, 2009, from Acting Chief Michael Jones, wherein he requests that the Fire Captain position assigned to the Bureau of Administration be reclassified to Fire Lieutenant. The incumbent of that position is Bobbie R. Webber, President of Local 215. The incoming Local 215 President is David R. Seager, Jr who holds the position of Fire Lieutenant. The Chair referred the request to the Department of Employee Relations.

b) The Director presented a letter dated December 30, 2009, from Acting Chief Michael Jones, wherein he requests that one position of Paramedic Field Lieutenant be reclassified to Fire Lieutenant due to a retirement, in accordance with City of Milwaukee Ordinance Numbers 021593 and 021594. Commissioner Morgan moved approval of the request, seconded by Commissioner Hein. The motion carried unanimously.

c) The Director presented a letter dated December 30, 2009, from Acting Chief Michael Jones, wherein he notifies the Board that he has extended the unpaid Medical Leave of Absence for Firefighter Craig C. Weiss until March 24, 2010.

## 4. POLICE DEPARTMENT:

a) The Director presented a letter dated December 22, 2009, from Chief Edward Flynn, wherein he nominates Captain of Police John M. Hagen to the exempt position of Inspector of Police in the Police Department. Pursuant to Rules of the Board, final action on this nomination was laid over to permit the nominee to be interviewed.

b) The following promotions, as presented by Chief Flynn, were approved by the Board:

TO OFFICE ASSISTANT III, from Office Assistant II, a promotion without competitive examination, effective January 10, 2010:

KATHY M. HARRIS.

TO POLICE DISTRICT OFFICE ASSISTANT, from Office Assistant I, effective January 10, 2010:

JACQUELINE DAVIS-COBIN and MICHELLE L. HARRER.

c) The following appointment, as presented by Chief Flynn, was approved by the Board:

TO SCHOOL CROSSING GUARD (REGULAR), effective December 9, 2009:

CHARLES R. JONES.

d) The Director presented a letter dated December 20, 2009, from Chief Flynn, wherein he presents a request from Identification Technician John M. Klein for voluntary demotion to his former rank of Police Officer, to be effective January 10, 2010. Commissioner Hein moved approval of the request, seconded by Commissioner Morgan. The motion carried unanimously.

5. PUBLIC COMMENT:

There was no comment made from the public present.

6. UNFINISHED BUSINESS:

e) The Director returned to the Board the matter of Heavy Equipment Operator Timothy Beaumont's removal from the Fire Lieutenant Eligible List. The Director stated that the item was noticed for possible closed session and could move into closed session if necessary. The Director presented a correspondence dated December 18, 2009 addressed to Mr. Jeffrey Sweetland, Mr. Beaumont's attorney. The correspondence contained the following: Correspondence of December 11, 2009 from Acting Chief Jones to the Board which indicates that Mr. Beaumont has used 51.11 (24-hour) sick days since the time of his appointment and had earned 136.74 (24-hour) sick days to date of the letter, of the 883 Local 215 members 715 used less than 51.11 (24-hour) sick days, sick days do not include Family Medical Leave Act (FMLA) days not worked, it also contains injury leave and a report of a home check; MFD disciplinary charge specifications and associated F105 reports of April 1994 approximately 13 pages, ultimately leading to the decision that Mr. Beaumont had failed to perform duties; MFD F105 report of July 23, 2002 alleging Mr. Beaumont was tardy for duty; MFD numbered notice 2008-059 of February 26, 2008 describing the Department's 20-40-60-80 sick leave program and stating Mr. Beaumont was placed in the program on March 1, 2008; Memorandum signed by Timothy Beaumont dated stamped April 18, 2008 stating his understanding of the sick leave program and the requirements of a medical certificate and home check for each sick leave occurrence; MFD Sick Leave Report of Timothy Beaumont; MFD Injury Duty Report of Timothy Beaumont; MFD Summary Sick Leave Report of Timothy Beaumont which details how much is not FMLA time; MFD F105 Report of December 3, 2008 submitted by Battalion Chief Thomas Jones which details the events of an incident on June 7, 2008 where Mr. Beaumont felt harassed because his work location was changed and he was not in proper uniform, wearing a Boston Fire Department shirt, threatened to go home sick because his assignment was changed, and then he injured his neck exiting the fire engine and went home on sick leave for the equivalent of three weeks; MFD F105 Report of December 3, 2008 submitted by Deputy Chief Donald Doro regarding a home check where Mr. Beaumont was working on his deck while on sick leave for neck pain; and "Tentative Settlement Agreement" submitted by Attorney Jeffrey Sweetland.

The Chair clarified that the Board would be rendering a decision regarding their previous decision to remove Mr. Beaumont from the Fire Lieutenant Eligible List based on a remand from Circuit Court regarding lack of an adequate record.

Mr. Beaumont read a prepared statement to the Board regarding his career on the Department, his use of sick leave, and his participation in the Fire Lieutenant examination process. Copies of the statement were distributed to the Board.

Mr. Sweetland stated Mr. Beaumont was removed from the Eligible List because his sick time included FLMA time, but when Acting Chief Jones submitted a correspondence to the Board the FMLA time had been removed, dropping Mr. Beaumont's sick time from over 100 (24-hour) sick days down to 51.1 (24-hour) sick days. Mr. Sweetland asserts that Mr. Beaumont was put in the 20-40-60-80 program using FMLA time, and should never have been put in the program because it should not include FMLA time. Local 215 has filed a Prohibited Practice complaint with the Wisconsin Employment Relations Commission (WERC) against the City of Milwaukee and the Fire and Police Commission alleging Mr. Beaumont's sick and injury leave was used as criteria for disqualification after allowing Mr. Beaumont to participate in the exam and approving the eligible list with his name on it. The tentative settlement agreement was reached with Assistant City Attorney Thomas Beamish in response to the complaint and was mediated by an employee from WERC. The agreement provides Mr. Beaumont will be restored to the Fire Lieutenant Eligible List and will be given the next available promotion in exchange for dropping the WERC complaint and waiving claims to back pay. Mr. Sweetland stated the Board and Fire Department Command staff can evaluate Mr. Beaumont's ability to perform the job of Fire Lieutenant during his probation period. He requests that the tentative settlement agreement be approved in exchange for dropping all claims and complaints against the Board and the City.

The Chair clarified the Board will not be taking action on a settlement agreement and will only be reviewing the removal from the Fire Lieutenant Eligible List.

Bobby Webber, former President of Local 215, stated what is happening to Mr. Beaumont is unfair. Mr. Beaumont was allowed to take the Fire Lieutenant examination, was never viewed as incompetent, and has served as an Acting Fire Lieutenant. Mr. Webber requests that the Board overturn its previous action and restore Mr. Beaumont to the Eligible List.

David Seager, President of Local 215, stated sick leave is a contractual benefit, it is clearly defined and Mr. Beaumont has not misused it. Nothing available to the Board today precluded Mr. Beaumont from becoming a Heavy Equipment Operator. Mr. Beaumont is an excellent worker and earned the opportunity to serve as a Fire Lieutenant. All Mr. Beaumont wants to do is serve the City and should be given the opportunity to prove that he can perform in the capacity of a Fire Lieutenant. Nothing before the Board today speaks to his ability to perform the duties of a Fire Lieutenant.

The Chair asked Mr. Seager if he believed it was possible for someone to abuse the benefit of sick leave. Mr. Seager responded that he did not. Mr. Webber stated the current 20-40-60-80 program deals with potential abuse of sick leave, looks for problems, and gives the opportunity to intervene if necessary. The intent of the program is to prevent and preclude abuse of sick leave. The abuse does not happen, but it could possibly happen. The program is a monitoring tool to deal with potential problems and gives the individual the opportunity to reach out to management and Local 215 for help.

Commissioner Morgan asked for details about the home check where Mr. Beaumont was observed working on his deck. Mr. Beaumont responded that there was a dead cat under his deck and all he had to do was unscrew two boards to remove the cat. He stated he explained the situation to Deputy Chief Donald Doro who performed the home check.

Al Jansen, Local 215 Executive Board member, stated Local 215 voted to support Mr. Beaumont. He should be afforded the opportunity to perform as a Fire Lieutenant with the expectation that he perform flawlessly. Acting Chief Jones has the ability to look at abuse and problem areas, and can intervene to correct them.

The Chair entertained a motion to convene in closed session in Room 301-B, City Hall, 200 East Wells Street, on this matter, pursuant to Section 19.85 (1)(c) Wis. Stats. The Board will then reconvene in open session in Room 301-B, City Hall, 200 East Wells Street, following the closed session. Commissioner Stark moved to convene in closed session regarding the request, seconded by Commissioner Morgan. The motion was carried on a roll call vote of 4-0, and the Board went into closed session at 6:45 p.m.

The Chair reconvened the Board in open session, at 7:05 p.m. The Chair stated the agenda item is a review of the removal from the Fire Lieutenant Eligible List, review of the decision, and the factors that lead to that decision. He asserted that FMLA time was not considered in the decision. The decision had to do with a review of the promotional process and the objection of the Chief in accordance with Board Rule XI. The Board reviewed the information provided by the Chief and Mr. Beaumont's testimony. The Chair stated sick time is not inappropriate to consider when considering a promotion, but FMLA time was not considered in the decision.

Commissioner Stark stated at the time the initial decision was made she did not consider FMLA time, nor is she considering it today. She is also not considering injury leave in her decision today. She asserts what her decision is based on today is whether or not Mr. Beaumont abused sick leave and whether or not that is the example that should be set by leadership. She believes that was an appropriate consideration before and is an appropriate consideration now.

Commissioner Hein stated FMLA time was not a factor previously and is not a factor now. Her concern was completely about the abuse of sick leave, and nothing presented tonight has changed her mind.

Commissioner Stark moved to affirm the previous decision of the Board to remove Timothy Beaumont from the Fire Lieutenant Eligible List, seconded by Commissioner Hein. The motion carried unanimously.

7. ADJOURNMENT:

Commissioner Stark moved to adjourn the meeting, seconded by Commissioner Hein. The motion carried unanimously.

The meeting concluded at 7:10 P.M.

Respectfully submitted,



Michael G. Tobin  
Executive Director

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