

November 19, 2015

A Regular Meeting of the Board of Fire and Police Commissioners was held on the above date, commencing at 6:05 P.M.

PRESENT: Commissioners: Steven M. DeVougas, Chair
Fred Crouther
Michael M. O'Hear
Marisabel Cabrera
Ann Wilson

ABSENT: Commissioner: Kathryn A. Hein (Excused)

ALSO PRESENT: Milwaukee Fire Department Assistant Chief Daniel Berendt and Milwaukee Police Chief Edward Flynn.

The Chair reconvened the Board in Regular Session, having previously met in Executive Session from 5:40 p.m. to 6:00 p.m. pursuant to Section 19.85 (1) (c) Wis. Stats., to interview Lieutenant Heather Wurth for the promotion to the rank of Captain and consider the promotions of other individuals to the position of Police Lieutenant, Police Sergeant and Detective.

The meeting was staffed by Executive Director MaryNell Regan. The Director presented for adoption minutes of the Regular Meeting of November 5, 2015. Commissioner O'Hear moved approval of the minutes as presented, seconded by Commissioner Crouther. The motion carried unanimously.

1. UNFINISHED BUSINESS:

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

TO CAPTAIN OF POLICE, from Police Lieutenant, contingent upon successful completion of a drug screening, effective November 22, 2015:

HEATHER N. WURTH.

b) The Director presented a letter dated November 13, 2015, from Director of Employee Relations Maria Monteagudo, providing a report concerning the reclassification of the Administrative Services Specialist position in the Police Department. Human Resources Representative Sarah Trotter from Employee Relations made a presentation regarding their findings. It is their recommendation that the job position and pay range should be reclassified from Administrative Services Specialist, Pay Range 2BN to Domestic Violence Victim Liaison, Pay Range 2DN. In addition, it is recommended that a footnote be added to allow recruitment at any rate in the pay range. Commissioner O'Hear moved approval of the reclassification, seconded by Commissioner Crouther. The motion carried unanimously.

c) The Director responded to the public's incorrect assumption at the previous regular meeting that the Fire and Police Commission granted former police officer Christopher Manney duty disability. She stated that the FPC has nothing to do with evaluating, awarding, disallowing, reviewing or even receiving the duty disability application, which is governed by Chapter 36 of Milwaukee City Ordinances and is overseen by the Annuity and Pension Board. Questions and comments may be sent to that pension board, which meets at the offices of the Employee Retirement System at 789 North Water Street, Room 300. Their next meeting will be on November 23, 2015.

2. EXAMINATIONS:

a) The Director presented for approval a staff request to amend the eligible list for the position of Police Officer for the Milwaukee Police Department. FPC Human Resources Representative Toni Vanderboom made a presentation, informing the Board that due to a miscalculation in the awarding of residency preference points, candidate Gustavo Gonzales was not invited to complete the selection process and was not included on the eligible list previously adopted by the Board. She stated that he has now successfully completed all of the selection components, and an amended eligible list which includes Gustavo Gonzalez is being submitted to the Board for their approval. Commissioner Wilson moved approval of the amended list, seconded by Commissioner O'Hear. The motion carried unanimously.

3. FIRE DEPARTMENT:

a) The Director presented a letter dated November 2, 2015, from Chief Mark Rohlifing, wherein he requests recruitment and testing be conducted as soon as possible for the position of Heavy Equipment Operator, as the eligible list has been exhausted. A motion was made Commissioner O'Hear to refer the request to FPC staff for implementation, seconded by Commissioner Crouther. The motion carried unanimously.

b) The Director presented a letter dated November 5, 2015, from Chief Mark Rohlifing, requesting review and reclassification of five positions: Fire Technical Services Manager, Fire Equipment Repairs Supervisor, Fire Personnel Officer, Health and Safety Officer, and Administrative Assistant IV. Assistant Chief Berendt explained to the Board that this was a continuation of the Fire Chief's reorganization plan and focuses on a review of all the positions on the administrative side. The Chief has identified these positions as positions in which the duties and responsibilities have changed greatly over the years, requiring more subject matter expertise and technical knowledge. A motion was made by Commissioner Crouther to refer the request for reclassification to FPC and DER staff for review, seconded by Commissioner O'Hear. The motion carried unanimously.

Assistant Chief Berendt was granted permission by the Executive Director to leave the meeting early to preside over a recruit graduation class of twenty-two Fire Cadets. Chief Berendt shared with the Board that almost all of the graduates are paramedics and the Department is very proud of this class. The Chair offered the Board's congratulations; and Chief Berendt agreed, on behalf of the department, not to schedule future graduations or events on the same night as regular FPC meetings.

4. POLICE DEPARTMENT:

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

TO POLICE LIEUTENANT, on a waiver basis, from eligible list established July 16, 2015, contingent upon successful completion of a drug screening, effective December 6, 2015:

#11 – DAVID K. FELDMEIER and #12 – WILLIAM W. WILSON III.

TO POLICE SERGEANT on a waiver basis, from eligible list established December 19, 2013, contingent upon successful completion of a drug screening, effective December 6, 2015:

#61 – BENJAMIN R. FELLERS and #62 – DOUGLAS J. LEMKE.

TO DETECTIVE, on a waiver basis, from eligible list established December 19, 2013, contingent upon successful completion of a drug screening, effective December 6, 2015:

#74 – WILLIAM R. FEELY and #75 – ALEXANDER R. KLABUNDE.

TO POLICE RECORDS ASSISTANT MANAGER, from eligible list established September 3, 2015, effective December 6, 2015:

#3 – PAMELA A. KOLEAS.

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

TO POLICE OFFICER, from eligible list adopted March 5, 2015, contingent upon successful completion of a pre-employment drug screening, effective December 7, 2015:

#26– ANNA OJDANA, #27 – MICHAEL ALLEN, #29 – APRIL RIVERA, #30 – JOSEPH LANZA, #33 – SHAWN TOMS, #34 – ERIC HUOTARI, #37 – ADRIAN RIVERA III, #38 - ADAM STAHL, #41 – WILLIAM VANLAANEN, #43 – DEMETRIOUS HUDSON, #44 – JOSE RAMOS, #46 – DUSTIN CONSTINO, #48 – ARIANNA WINTERS, #49 – MARK NISENBAUM*, #55 – PARKER POPP, #56 – DEREK DOBBRATZ, #59 – GREGORY RUPNICK, #60 – ANTHONY SYNOWICZ, #63 – ADAM HALASE, #64 – DENAHA BOYD*, #65 – SHAWN AWE, #66 – NICHOLAS BECKETT*, #69 – JOSE FLORES, #72 – NICHOLAS GAJEWSKI, #74 – THOMAS KOTNIK, #75 – NOULENG HER, #77 – MARCEL STOLZ, #82 - JUSTIN FERRARI, #84a – JUSTIN HUTTER, #87 – KEVIN ZAVADIL, #88 – PATRICK RAY, #89 – JEREMY KENNER**, #90 – DANIEL SCOTT, #94 – JOSEPH GRAMS, #95 – RYAN MILLER**, #97 – MICHAEL WEILAND, #98 – CHRISTOPHER POLYDOROS*, #101 – ANTONIO RIVERA and #101b – GUSTAVO GONZALES***.

Note: Appointment is also contingent upon successful completion of: * Medical examination; **Psychological evaluation; or ***Medical, psychological, and approval of amended eligible list.

TO POLICE OFFICER, on a contingency basis, from eligible list adopted March 5, 2015, upon successful completion of a pre-employment drug screening and vacancies, effective no earlier than December 7, 2015 and no later than December 21, 2015:

#103 – KYLE GRAF, #106 – NATHAN SMALKOSKI, #107 – BILAL HAMID, #108 – AARON NELSON, #109 – JONATHAN DEWEY*, #111 – TIMOTHY STEEL, #114 – PEDRO GALVAN, #115 – SEBASTIAN SZPARA**, #117 – ANGELA KLUENKER AND #118 – BRANDON JAZDZEWSKI.

Note: Appointment is also contingent upon successful completion of: *Background appeal; or ** Medical and psychological evaluation.

TO POLICE RECORDS SPECIALIST I, contingent upon successful completion of a medical examination and drug screening, effective December 7, 2015:

BRENDA LANGOEHR and MATTHEW PACYNA.

TO OFFICE ASSISTANT I, from Department of Employee Relations eligible list, contingent upon successful completion of a medical examination and drug screening, effective December 7, 2015.

JAMIE V. HARMON, CHRISTY IRVINE-BACHMANN and TIFFANIE HENDERSON.

TO SCHOOL CROSSING GUARD, with the respective effective dates:

ROOSEVELT CALDWELL (11/02/15), LUIS CUEVAS (10/21/15), ROBERT GOODWIN (10/26/15), WILLIE GRANT (9/24/15), VIRGINIA HARRIS (10/21/15), REGINA LOFTON (10/23/15), MARIA MELENDEZ (10/27/15), MARCUS NANCE (10/30/15), DESMOND POSEY (10/30/15), JAMES RAGSDALE (10/21/15), TRAYVON RICHARDSON (10/22/15) and BIANCA VEGA-ALMA (10/29/15).

- c) The Director presented a letter dated November 12, 2015, from Chief Flynn, wherein he notifies the Board that Detective Samantha L. Flock requests a voluntary demotion to her former rank of Police Officer, to be effective November 22, 2015. Commissioner O'Hear moved to approve the voluntary demotion, seconded by Commissioner Crouther. The motion carried unanimously.
- d) The Director presented a letter dated November 6, 2015, from Chief Flynn, wherein he notifies the Board that Police Lieutenant Dennis A. Trzcinski has been suspended for five days and discharged from the department for violation of Department Core Values under Personnel Order 2015-136, dated November 6, 2015.
- e) The Director invited Chief Flynn to address the Board on the Police Department's recent accreditation by the Wisconsin Law Enforcement Group (WILEG). Chief Flynn introduced Inspector Carianne Yerkes, the commander of the Department's Risk Management Bureau and the person in charge of the accreditation process. Chief Flynn noted that the Department tries to incorporate its vision and mission statements in everything that it does, including its strategy, tactics, training and community outreach. He stated that the Department has worked very hard to realize these things and transition to a values-based organization. Chief Flynn stated the Department disciplines members who have violated the Department's values, as opposed to someone who simply made an error in rule interpretation, which is a matter of training. A violation of a core value, however, requires serious discipline. He stated that the Department has developed scores of partnerships with neighborhood-based organizations, private entities, and public entities. The Department has involved itself in community-based work to strengthen neighborhoods and organize them to work together effectively. One of the community-based programs, the STOP program, has received a national award. All of these programs are part of the Department's efforts in community outreach, community information and community education.

He indicated the Department has worked hard re-evaluating its policies, which is why they decided to ask for accreditation. In the last several years, the Department has reviewed all of its policies and compared them to all of the consent decrees issued to all of the major cities across the country that have been sued by the Department of Justice. They reviewed the consent decrees and compared it to MPD policy to make sure the Department had the appropriate policies, the appropriate practices, and the appropriate training. For the last four years, the Department has been applying the lessons learned in those communities to Milwaukee and have overhauled training and policies accordingly. The Department has worked hard to deal with cultural issues by working on a values-based police leadership organization and recognizing that every member of the department has to be a principled leader and a principled follower. Entry-level officers are leaders in the community and they have to assert positive peer pressure on each other for appropriate behavior, in addition to being properly supervised.

Chief Flynn explained that the Wisconsin Law Enforcement accreditation movement is an attempt by the police chiefs in Wisconsin to create an environment in which any organization can submit its policies and practices for external review and make sure those policies meet appropriate professional standards and that the department can demonstrate compliance. The Chief emphasized that the key is not only to have a model policy, but to have proof it is followed. He related that one of the reasons the Department has a Risk Management Bureau is so it can be constantly on the lookout for gaps between policy and practice. He stated it is a high risk for any organization to have practices that have become common but are at variance with policy. He acknowledged that there have been times when the Department had adjusted policy to practice when the practice was a better, more intelligent shortcut; however, there have also been times when the Department has cracked down on a practice because it was not acceptable, and the policy has to take precedence. He asserted that the Department has been very careful in doing both. The WILEG program is a two-year program consisting of 335 standards, of which 226 applied to Milwaukee. Some of the standards did not apply because Milwaukee has its own communication center.

Inspector Yerkes confirmed that there are 500 police departments in the state and that Milwaukee has the largest department. Approximately 50 other police departments have obtained accreditation, many of them much smaller than Milwaukee. She stated that over the past two years the Department has rewritten most of its policies to make sure they comply with WILEG standards. She explained that also over that two-year period the Department was required to develop "proofs" demonstrating that they are actually following policy and are in compliance with WILEG standards. The WILEG inspectors were at the Milwaukee Police Department for four days and inspected the entire department. The inspectors went on ride-alongs, went to every division, reviewed each of the division's standards, and had file assessors going through all of the proofs. There were presentations by the Mounted Patrol, Harbor Patrol, and the STOP program. The inspectors also went through the Academy. Upon completion of their inspections, WILEG put together a very large report and a thirty page summary report. The assessment team was very impressed by what MPD had done as a very large police department. Most police departments seeking accreditation are less in size and number than a single District station. All of MPD's divisions, district stations, administrative and investigative bureaus and neighborhood task force had to meet all 226 standards. The Department is accredited for the next three years at which time it will be inspected again and the proofs will be reviewed from the past two years.

Chief Flynn explained that if the Department does not achieve reaccreditation, it will have to start from scratch all over again. The Department cannot just fix the one thing that it failed and be reaccredited. The process must be begun all over again. This provides an incentive to maintain accreditation in the intervening years. Inspector Yerkes confirmed that over the next three years, they will focus on maintaining standards and putting together proofs.

In choosing whether to be state accredited or nationally accredited, Inspector Yerkes explained that national accreditation is very expensive. She indicated that in reviewing the two accreditation programs, the Department is very satisfied with what the state does. Chief Flynn offered that the state program is much more cost effective and essentially the same program as the national accreditation, except for a few policies, many of which the Department already has. Inspector Yerkes asserted that one of the advantages in being accredited is that an outside entity inspects the entire Department and confirms the Department is following its policies. She also stated the process forced everyone to shape up their policies and practices and educated all of the divisions on the importance of maintaining standards. Now, everyone knows what WILEG standards are, and no one wants to be the person responsible for the Department failing accreditation. Inspector Yerkes professes this really caused everyone in the Department to raise their standards; and now upon achieving accreditation, it is a source of pride for the police officers and shows everyone that they really are doing a good job. Chief Flynn declared that the WILEG assessment team that came in to inspect them gave them the white glove treatment to make sure that WILEG's processes stayed credible by holding the Department to a high standard.

f) The Director presented a letter dated November 10, 2015, from Chief Flynn to the U.S. Department of Justice (DOJ) requesting participation in the Collaborative Reform Initiative for Technical Assistance (CRT-TA) process. Chief Flynn explained his decision in making this request. He stated that MPD has been turning itself inside-out to meet the standards of other departments that have been sued for pattern and practice to make sure the Department did not have a pattern and practice suit; and to make sure the Department does the things that one does to demonstrate that it takes seriously the issues that have arisen at other departments. However, he contends that no matter how much reform has occurred, how good the training is, how "locked-down" the policies are, or how carefully inspections are completed, there is no guarantee that there will not be a critical incident. The nature of police business is to police volatility, and despite everyone's best efforts, sometimes someone makes the wrong decision and there is a bad outcome. Notwithstanding that, he believes the Police Department needs to show that a) it is not failing to train, b) that the training meets the highest standards, c) that they are not failing to supervise, and d) that systems and processes are in place to identify wrongdoing, identify patterns, and to deal with them assertively through discipline, policy review, and training. Chief Flynn believes the Department has been assiduous in doing those things.

Chief Flynn stated he is aware that there have been demands for the DOJ to initiate a pattern and practice suit against the Department. He knows that people from the Justice Department have been in town and examined data the FPC has required be collected about the police department, to see if there are any patterns and practices. He also knows that the DOJ has an alternative process that a police department can participate in that is between a formal investigation, and a lawsuit alleging pattern and practice and demanding a consent decree. This process is called Collaborative Reform, and it is a process reserved for police departments that are already perceived to be reform-minded who are not fighting change, but rather are embracing it. He provided the example of the Philadelphia Police Department which had a serious problem with the use of deadly force. The Philadelphia police chief invited the DOJ in and entered into a Collaborative Reform agreement regarding the policies, procedures and training concerning the use of deadly force. Chief Flynn contends the Collaborative Reform agreement was granted to the Philadelphia Police Department because the DOJ was not considering suing the department because they recognized that the department was already moving in the direction they wanted. The other department that Chief Flynn is aware of receiving Collaborative Reform is the Las Vegas Metropolitan Police Department. That police department is considered to have high levels of integrity and professional standards, but it too had a serious issue with the use of deadly force. Las Vegas also invited the Justice Department to come in with a Collaborative Reform agreement, and the department subsequently changed their training based on the recommendations of the DOJ.

Chief Flynn announced that he and the mayor had met with the U.S. Attorney and members of the Justice Department to talk about requesting Collaborative Reform. He recognizes that although he brought in accreditation to demonstrate that the Department is moving in the right direction, for some people it will not have the same impact as the DOJ coming in and taking a look at the Department's operations. It is Chief Flynn's belief that a) Collaborative Reform will be granted because the DOJ is not going to sue the Department, and b) that they will identify the Department as being engaged in model programs and doing much to move itself along the continuum of reform. He suspects the DOJ will find something for the Department to change and to do better or more effectively, and the Department will happily comply. Chief Flynn emphasizes that this is not an attempt to avoid a pattern and practice suit. The DOJ will counsel a police department not to ask for Collaborative Reform if they are considering suing the department. Chief Flynn states he is operating under the assumption that Collaborative Reform will be granted to the Milwaukee Police Department, and it will be a system not unlike accreditation, meaning they will bring in subject matter experts and engage in a top-to-bottom review and issue findings. He does not doubt that they will find something to improve, but he also believes they will be impressed by the movement of change the Department has engaged in. Chief Flynn expects to hear back from the DOJ in about three weeks or so. The process will probably begin next year and is generally a two-year process, involving six months of site visits and 1½ years of implementation.

Commissioner O'Hear requested a briefing on this in more detail if Collaborative Reform is granted. Chief Flynn does not believe there will be any objections in having someone from the Justice Department explain the process to the Commissioners if that happens. Chief Flynn also mentioned that he was invited to testify in front of the President's Taskforce on 21st Century Policing, and they have recently released a report. MPD has done a thorough evaluation on compliance with that report, and he would like to make a presentation to the Board on that matter. He believes the Commissioners will be pleasantly surprised. The Chair indicated that the Board would be very interested in hearing about the report and wanted to thank the Chief and commend his staff for obtaining accreditation and pursuing Collaborative Reform.

5. PUBLIC COMMENT:

There were no public comments.

6. ADJOURNMENT:

Commissioner O'Hear moved to adjourn the meeting, seconded by Commissioner Crouther. The motion carried unanimously.

The meeting concluded at 6:40 P.M.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mary Nell Regan", written in a cursive style.

MaryNell Regan
Executive Director

MNR:JS:jcs