July 24, 2014

A Regular Meeting of the Board of Fire and Police Commissioners was held on the above date, commencing at 5:31 p.m.

PRESENT: Commissioners: Sarah W. Morgan
Kathryn A. Hein
Michael M. O'Hear
Ann Wilson
Marisabel Cabrera
Steven M. DeVougas

ALSO PRESENT: Gerard Washington, Assistant Chief, representing the Milwaukee Fire Department and Edward Flynn, Chief, Milwaukee Police Department

The Director presented for adoption minutes of the Regular Meeting of July 10, 2014. Commissioner Cabrera requested a revision to the minutes to include some statements made by the Board in Section 5h. Commissioner Morgan moved approval of the minutes as amended, seconded by Commissioner DeVougas. The motion carried unanimously.

1. UNFINISHED BUSINESS:

a) The Director presented a request from Chief Flynn to exempt the position of Data Communications Specialist. Inspector Mary Hoerig of the Milwaukee Police Department (MPD) spoke regarding the request for a one-time exemption for this position since the person who was in the position just retired. She stated since the person is the help desk supervisor on the night shift, if the position is not filled quickly, it could cripple the department. This position assists the officers when they call in to report their various systems or radios not working. If they do not exempt the position, it could take six months to a year to fill the position. She further stated they could not ask their IT director to be short staffed. The MPD has already contracted out many of the IT positions. Commissioner Morgan asked if this is a one-time exemption or does it make the position permanently exempt. Val Williams, the MPD HR Administrator, stated previously if you made the position exempt, it would always be exempt unless you went back and voted to change it. The Director stated to exempt the position means there has to be a FPC rule change because the rule lists the exempt positions. He stated the primary reason to exempt this position is because the Department of Employee Relations (DER) is slow in getting the recruitment and examination list out. For this position, the person they report to is not exempt, the people he/she works with are not exempt, nor are the help desk people exempt. The person who currently fills the position is a former sworn police officer who adjusted to the position and did not require any special qualifications to fill the position. Normally to exempt a position it would be for something that would need special qualifications, is difficult to recruit for, or something that is hard to fill. It would be unusual to approve it because it would take a long time to fill; you can still approve it but it would be outside the FPC's normal procedure. The onus rests with the DER to speed up their process. If it would not be for that delay, we would not be looking at this item today. The alternative is to request the DER to get this on the fast track. Commissioner Wilson asked if it will take a year, or if it is a track record that the DER cannot get a position filled earlier than eight months to a year. Ms. Williams stated she believes the DER has a number of classifications they are working on, not just for the MPD but other city departments. The classifications are completed on a first-come, first-served basis unless they are for special circumstances. She stated eight months to a year is the typical amount of time it takes to get positions filled. Commissioner Wilson, hypothetically speaking, asked if the MPD needs to fill another difficult position, will that also have to be exempt. Inspector Hoerig stated if the position is mission critical, they would need to exempt the position. With this IT position, the person who currently fills it has retired and the MPD needs to fill it. They have a handful of technology people to keep everything up and running. They need more people, but with budget constraints and timelines, it is difficult. She further stated without having a supervisor on the night shift, she cannot hold people accountable for the technology. Commissioner Cabrera asked the Director if it is possible to specify the period of time the position is exempt. The Director stated under FPC rules the exemption becomes permanent, but under the general City Service Commission rules they have a provision where it can be exempt while that particular incumbent holds the position and when it becomes vacant, it is reviewed again. Commissioner Morgan asked whether once the position is exempt would it no longer a civil

service position with a particular job title and a competitive exam. Chief Flynn stated it is like the private sector. Commissioner Morgan asked if there would be clear job responsibilities, expectations and a process for filling the position. Ms. Williams agreed. Commissioner Hein asked if the request for this position was given to the DER. Ms. Williams stated it was not since the MPD needed to ask the FPC to have it exempt, so they came before the Board first. Commissioner Cabrera asked how long it would take to fill the position if it was not exempt. Ms. Williams stated they would work on it right away by preparing the job announcement bulletin, develop an examination and do the recruitment. She further stated by focusing just on this position, it would take four to five months to fill. Inspector Hoerig stated they have had other positions that took a year to one and one-half years to fill and that is her concern. To have this supervisor position open for that long is not wise to do on the night shift with their current technology needs. Commissioner Morgan moved approval, seconded by Commissioner O'Hear. Commissioner Wilson opposed. The motion carried.

b) The Director presented the MPD's amendment to Standard Operating Procedure (SOP) 730-Mobile Digital Video/Audio Recording Equipment for approval, which was held over from the July 10th meeting to obtain more information from the MPD. Inspector Hoerig stated she had some answers to questions brought up at the July 10th meeting regarding the SOP. She further stated she was unable to find out how Internal Affairs' complaints are impacted by the post-recording because the complaints are not categorized that way. Someone would have to read all of the complaints that could be pertinent. Anecdotally, no investigators could recollect any cases that hung on the post-recordings that have been impactful in investigations, but pre-recordings were helpful. Inspector Hoerig spoke on Commissioner Cabrera's question regarding the ALPRS storage and what the difference is in disk space for an ALPRS if the ALPRS camera stored those images and how they compare to the video storage. She stated the MPD owns the storage for the ALPRS photographs. One terabyte of disk space is used to store all of the data. They are currently using 600 megabytes of that. The MPD has purchased one terabyte for that system. For the DP3 system video they have 120 terabytes, which is a significant difference. They have already used up 100 terabytes for the video. Commissioner Cabrera asked if this is all video or only the post-recordings. Inspector Hoerig stated it was for all video. With already using 100 terabytes, they are trying to figure out ways they can conserve their space. This is one option they identified would be very helpful. They are also working on educating officers that are doing traffic control at an accident whether they need the video cameras on. She further stated Commissioner Cabrera had asked what other cities are doing. The MPD contacted twenty-nine cities of similar size and, of those that responded, sixteen had immediate stop of the video recording, meaning at the officer's discretion, the cameras were turned off; four had 60 second post-recording; and two had 30 second post-recording. Prior to 2013 the video recording system the MPD used had no post-recording technology and they had no requirement. Inspector Hoerig stated at the last meeting she said the maximum time the system would perform post-recording was 4.5 minutes, but it is actually five minutes. Commissioner Cabrera stated it is difficult to imagine how much the savings would be for the post-recording storage space. She does not believe the cost savings outweighs the impact it has on the public's trust in the MPD. She also does not believe information off the top of someone's head is reliable. Commissioner Morgan asked if anyone from the public would like to be heard on this topic.

Chris Ahmuty, Executive Director of the American Civil Liberties Union (ACLU) stated he attended the last meeting where this item was addressed. He further stated he did not know if all of the questions have been answered and if creative alternatives have been explored. He asked if the MPD ascertains to eliminate the post-recording if there has been any discussion to reduce the time to two minutes, or turning the recorders off in a random fashion, so it would only record every fifth or tenth time, so the officer would not know for sure whether they were being recorded.

Emilio DeTorre of the ACLU spoke regarding how inexpensive DVDs and hard drives cost at Best Buy and how the MPD could save money by locating an inexpensive vendor.

Commissioner Wilson asked if the MPD buys their supplies at Best Buy, or if they have a contract with an individual. Inspector Hoerig stated the MPD has security requirements by the federal, state and city governments that they have to meet. They need server storage space and are looking at the Cloud storage space for the future. The MPD is held to a higher standard because of the public trust of their data that is

secured and that it is secured against theft and hacking. It is a very high threshold and they are audited on a regular basis to ensure security of their system. The MPD cannot go to Best Buy, or similar stores. Commissioner Morgan asked if the MPD has the option of reducing the time to 30 or 60 seconds. She stated she feels more comfortable with some buffer and you clearly see the end of an incident. Inspector Hoerig stated it can be set to any time up to five minutes. Any savings is a good savings. Commissioner Cabrera asked if the MPD is able to set the recorders as Mr. Ahmuty suggested. Inspector Hoerig stated there is no way to set them randomly.

Solana Ramos, University of Wisconsin-Milwaukee (UWM) student spoke regarding servers and suggested the servers may need to be upgraded. She believes the cameras should not be able to be turned off.

Commissioner Wilson asked who would be determining when the cameras would be turned off, and on what basis. Commissioner Morgan informed her that the FPC Board would be making that decision. She stated one minute verses 4.5 minutes would be a buffer and save money. She further stated she likes the random setting, but that is not an option. Inspector Hoerig stated there is a 30 second pre-recording. The Director stated whatever decision is made today is not a permanent decision. The Board could enact a compromise such as 30 seconds and then ask the MPD to bring it back for further review in six months or a year and see how it has been working. Commissioner Hein stated it is difficult to make an arbitrary cutback when the cost is unknown. Commissioner Cabrera stated the MPD has represented to the public that they are performing the post-recordings and for the public to gain confidence in the MPD, but now that confidence is being taken back. The evidentiary value of the video cannot be discounted. Chief Flynn stated he has never had a disciplinary hearing where a post-recording was presented as evidence. He further stated every year Dr. Steven Brandl comes in and speaks about patterns of citizen complaints against the MPD officers. Every year there are patterns of reductions in uses of force, vehicle pursuits and citizen complaints, and there has never been a year that post recording has been evidentiary. Commissioner Cabrera asked how the license plate readers that take pictures of people's license plates who have done nothing wrong and the hypothetical that someday they may be useful to a police investigation is different than monitoring the police. It does not mean it could not become useful in the future. Chief Flynn stated if there is a philosophical difference, then nothing he says can deal with a philosophical difference. It is a factual difference how often the MPD has used it, when it has been used, when it has been evidentiary material, how much it costs, what other similarly situated police departments do. If you decide 30 seconds or 60 seconds is a buffer, as other police departments do, fine. If it is a philosophical issue, there is no fact the MPD can present that will deal with that philosophical position.

Claire Van Fossen, Development Director of the Neighborhood House of Milwaukee, asked Inspector Hoerig about the education and exploration on how to record less of unimportant incidents like traffic violations and things like that where buildings are being recorded for hours at a time. Inspector Hoerig stated it is educational if the officers are doing traffic control or something that does not involve citizen contact. Looking into that is an option. She further stated there is a lot of education, re-education and refreshing people's ability to handle the technology. It is ongoing training. The MPD is always looking for ways technology-wise to save. The MPD has been denied huge amounts of money this year from the city on their technology budget. Storage space is one of the things the city cannot afford to give the MPD. Commissioner Morgan stated for clarification that once the squad lights are activated, the camera comes on. She further stated when there is an incident and there is a squad at one end of the block with the lights on, the camera is running, but the officer is not performing an investigation, he is there to block traffic. Inspector Hoerig agreed. Ms. Van Fossen asked since data is being used to record incidents that do not involve civilians, why would the safety and rights of civilians be jeopardized by not recording for 4.5 minutes. She also asked how is 30 or 60 seconds a compromise when the community is holding the FPC accountable for the 4.5 minutes. Ms. Van Fossen stated 2.25 minutes would be a compromise. Commissioner Wilson asked about the scenario of an officer being at the end of the block directing traffic, with the camera on because the lights are on. Last week the Board discussed the issue with two officers in a squad. Commissioner Wilson and Morgan asked for clarification that when the lights are on, the camera is also on. Inspector Hoerig agreed. Commissioner Morgan asked when the lights are turned off, the camera continues to record for 4.5 minutes. Inspector Hoerig stated the only way the camera goes off is if the officer turns it off, or if the car is shut off for two hours or more. Commissioner Cabrera asked about the scenario Commissioner Morgan stated and since the lights are on, can't the officer shut the camera off. Inspector Hoerig stated, yes the officer always

has the ability to turn off the camera at any time. Only by policy, regulations and the mandates the Chief has set out do the officers keep the cameras on and by threat of discipline; otherwise, they always have the ability to turn the camera off. Commissioner Cabrera asked if the officers followed the new education and training, wouldn't that save more than 4.5 minutes in different scenarios? Inspector Hoerig stated all of it would be helpful; any savings the MPD could get would be great. There is a lot that has to occur, including training the officers on the equipment and the 4.5 minute decrease would help.

Darlene Johns, Rufus King High School student and ACLU volunteer stated it sounds like the MPD does not want the cameras used because it is costing money. She further stated someone from the technology and financial departments needs to be present and show how much money it is costing to record the extra 4.5 minutes. Ms. Johns stated even though there were fewer complaints by citizens, it doesn't mean there are no issues.

Dana Smith, a citizen of Milwaukee, stated it is important to have the public's trust and it is an issue when citizens feel obliged to use their own personal cameras to record officers.

Amanda Well, a citizen of Milwaukee, stated she would be interested in hearing about some of the alternatives. She further stated if cost is an issue, maybe education on how to use the space on the server better and how the data can be compressed could make a difference.

Commissioner Morgan asked for a motion on the SOP. Commissioner O'Hear stated he would like to move that the SOP be approved with the modification that the amount of time should be set at 60 seconds. He agrees that it is helpful to have a buffer, but also respects the MPD's concerns with financials and storage space. Commissioner O'Hear stated 60 seconds is the most expansive precedent available from other cities and he believes it is the most appropriate balance. Commissioner Morgan seconded the motion. Commissioner Cabrera disagreed stating 60 seconds is not appropriate; to go from 4.5 minutes to 60 seconds, you might as well not have it at all; it's not a lot of time. The point is the people want to know that even if somebody is doing something bad or not, the general public has this idea that there is 4.5 minutes being recorded. Nothing has been presented to the Board stating the 4.5 minutes has not been used in disciplines. Just because Chief Flynn stated it has never been used in the past doesn't mean that there is not a recording of some bad conduct; it's just that it has not been looked at because it has not come up in any proceedings. The fact that the public already has this idea we have given them at different meetings and then to go from 4.5 minutes to 60 seconds seems like a slap in the face. Commissioner DeVougas stated if this is a financial decision, he would like to see some financials. He is not comfortable making a decision without knowing what the actual savings are. If it is going to be voted on, he will either abstain or move to hold it over to get the financials. Commissioner Wilson stated she is uncomfortable with making a decision with the information received at the previous meeting and this meeting. She thought more was stated at the last meeting than just financials. Commissioner Hein agreed with Commissioner DeVougas. She stated she does not have a problem with less time, but would like to know what it costs. Commissioner Morgan stated the motion on the floor is to amend the SOP to 60 seconds. Commissioners Morgan and O'Hear voted aye, Commissioners Cabrera and Wilson voted nay and there were no abstentions. The motion failed. Commissioner Morgan asked if any commissioners would like to propose any other options for a vote. Commissioner Cabrera moved to table the issue until the financials are received. Commissioner Wilson stated she would like to have the financials in seconds or minutes instead of one amount. Commissioners Cabrera and Wilson requested the vote be held over until financial information on video storage is provided to the Board by the MPD. Commissioner Morgan asked for any further discussion. Hearing none, a vote was taken and the motion was carried unanimously to hold the SOP over until financial information is received.

2. NEW BUSINESS:

a) The Director presented correspondence from Chief Flynn requesting the reclassification of the Crime and Intelligence Specialist position. The Board referred the request to the DER.

3. EXAMINATIONS:

a) The Director presented the Electronic Technician job announcement bulletin for approval. Commissioner O'Hear moved approval, seconded by Commissioner DeVougas. The motion carried unanimously.

b) The Director presented the Emergency Vehicle Equipment Installer job announcement bulletin for approval. Commissioner DeVougas moved approval, seconded by Commissioner Hein. The motion carried unanimously.

4. FIRE DEPARTMENT:

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

TO FIRE CAPTAIN, on a waiver basis, from eligible list adopted December 19, 2013, effective August 3, 2014:

#11 – ROBERT A. HARTUNG and #12 – LEON BUTTS, JR.

TO FIRE LIEUTENANT, on a waiver basis, from eligible list adopted December 19, 2013, effective August 3, 2014:

#30 – BRADLEY J. GUDYNOWSKI and #31 – JEREMY M. SCHAEFER.

TO HEAVY EQUIPMENT OPERATOR, on a waiver basis, from eligible list adopted July 10, 2014, effective July 27, 2014:

#2 – MICHAEL D. PAULUS and #3 – TIMOTHY J. KOTLOWSKI.

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

TO FIREFIGHTER, contingent upon successful completion of the Fire Cadet program, medical examination, drug screening, updated background investigation, and updated psychological exam, effective September 2, 2014:

JUSTIN M. BUSCHMANN; JEREMIAH H. DUNN; GABRIEL CAMBRONERO; JULIAN P. HOPGOOD; TYLER J. SHARP; STEVEN F. PICKETT; DENNIS D. LEWIS, JR.; JORDAN S. THOMPSON; ANTHONIO M. DELVALLE; MATTHEW M. ZIEMS; and QUINCY V. WALKER.

Fire Cadet Dennis Lewis, Jr. spoke on behalf of the 2012-2014 Fire Cadet class being appointed to Firefighter and thanked all the instructors, Chief Rohlfing, Assistant Chief Washington and the Fire and Police Commission for allowing the program to be revived and improved upon. He stated working for the Fire Department is a dream-come-true for all of them. Referencing Confucius, he stated he believes that keeping the end goal in sight is how you make it through the tough days. One day one of his fellow Fire Cadets was upset about the things he could not afford but wanted to do and how he could not wait for their official employment and the free time to spend as he pleased. Lt. Jones overheard them and told them to learn to love the times they have now, even the hardships because there will come a day when those times are long past and if you decided to spend them only thinking of the future you undoubtedly will regret missing out on many opportunities to learn from it and enjoy life. You will also appreciate much more your success if you allow yourself to experience your times of struggle. Fire Cadet Lewis stated the program did not just give him a chance at a job, a life-long brotherhood, or a chance to work with and learn from some of the most qualified and incredible teachers in the country, it gave him an understanding of himself that he could never have gotten anywhere else and that he will relish for the rest of his life. The cadet program has proven itself invaluable many times over in the two years they have been in the program. They have worked in the Milwaukee Public Schools teaching kids that violence is never the answer. They have worked with second and fifth graders in the Survive Alive House teaching them how to keep themselves and their families safe from smoke and fire. They worked with Coats for Kids, a program designed to ensure the children did not go

through the winter without warm coats to wear. They spent countless hours unpacking, prepping and repacking smoke alarms for the Firefighters Out Creating Urban Safety (FOCUS) program, which provides free smoke detectors to citizens in need. The cadet program not only represents a value for the department, but also instills necessary leadership skills into youthful, prospective members of the department.

TO FIRE CADET, contingent upon successful completion of a medical examination, psychological evaluation, drug screening and background investigation, from eligible list adopted June 5, 2014, effective September 15, 2014:

#1 – STEVIE COMIC, JR.; #2 – HUMZAH ABDULLAH; #3 – JOSE LUNA; #4 – MARCUS WILLIS, JR.; #5 – COLE HARVEY; #6 – DANNY THOMAS; #8 – RYAN WISCH; #9 – AGUSTIN GUERRERO; #10 – TRAYVON ROSEMOND; #11 – JUSTIN SHOCK; #12 – JEREMY FONTANEZ; #13 – BRITTANY HARRIS; and #14 – LUKE MYSZKA.

TO FIRE CADET, on a contingency basis, also contingent upon successful completion of a medical examination, psychological evaluation, drug screening, background investigation and number of vacancies, from eligible list adopted June 5, 2014, effective September 15, 2014:

#15 – AMBER BUSCHMANN; #16 – BENJAMIN ERICKSON; #17 – STEVEN REUTER; #18 – ALEAH ELLIS; #19 – SHARLEA BAUMEISTER; #20 – PHILLIP TADYSAK; #21 – OLIVER SCHNEIDER; #22 – CHRISTOPHER HALL; #23 – JUSTIN HEEBNER; #24 – FRANCISCO TORRES; #25 – RYAN DUNN; #27 – DEVIN SCHROEDER-PETERSON; #28 – ANTONIO GIBILIAN; #32 – TYLER CONNELLY; #33 – MITCHELL NACHREINER; and #34 – DELVONTE WILLIAMS.

c) The Director presented correspondence and job descriptions from Chief Rohlfing updating the job descriptions for Battalion Chief, Fire Captain, Fire Lieutenant, Heavy Equipment Operator, Fire Paramedic Field Lieutenant, Fire Paramedic and Firefighter.

d) The Director presented correspondence from Chief Rohlfing granting Firefighter Anthony J. Guehlstorf an unpaid medical leave of absence until October 20, 2014, effective July 20, 2014.

e) The Director presented correspondence from Chief Rohlfing notifying the Board Fire Lieutenant Steven J. Schaefer was suspended from duty for five days, with two days held in abeyance pending the successful completion of a stipulated program, effective July 8, 2014.

f) The Director presented Assistant Chief Washington who spoke regarding the Milwaukee Fire Department's 2013 Annual Report. Chief Washington stated the Fire Cadet program has expanded with 26 new Fire Cadets, bringing the total to 39. This reflects how successful the program is, and the MFD looks forward to taking it to the next level. This first group has set the bar extremely high. The health and wellness program has reduced injury claims by seventeen percent and lost time claims by twenty-five percent. The MFD has created some ways to reduce their budget with off-duty training. A lot more training is done on-duty, especially when it comes to their special teams. The total fire responses the MFD had in 2013 compared to 2012 were down, but their grand total was up in 2013 compared to 2012. Fires are down, but that is where a lot of firefighter injuries and fatalities occur. Members of the MFD are the best trained firefighters in the country. The MFD has an excellent amount of "saves" for penetrating traumas from gunshots or stabbings. Their advanced life support (ALS) and basic life support (BLS) are recognized nationally. The death toll would be higher if it wasn't for the ALS/BLS members that get there in the matter of minutes as police secure the scene, get in and do what they are trained to do. Other departments have contacted MFD, seeing how their program works and asked what they are doing to be so successful. Firefighters struggle mentally with issues and are reluctant to ask for assistance. The Traumatic Incident Resource (TIR), a non-profit organization of mental health professionals and emergency responders, offers a five-day "Train-the-Trainer" certification course in mental health first aid which was implemented during training. Chief Washington stated the program will help their members out tremendously and he has already seen the benefits of it. The MFD is the first fire department in the country to have this type of training. The

MFD Emergency Medical Service (EMS) has participated with the MPD in "active shooter" training. This is the first training both departments have participated in together. The FOCUS program is being expanded to not only serve the hardest hit areas of the city, but will blanket the 96 miles that make up the city. The members will get out into the community and get involved. One of Chief Washington's favorite charities, Operation Warm, handed out over 4,000 coats at nine elementary schools last year. He stated it was very moving and one of the greatest things he has done on the job. He received thousands of thank-you letters that he keeps in a drawer and when he is having a tough day, he reads a few of them and they bring a tear to his eye. One letter he received stated because the student received a brand new coat, the student's mother did not have to decide to pay a bill or give the student a coat. The mother did not have to stress over it. It is not just running into a burning building, or the penetrating trauma run, he believes it is making a difference that the young men and women will be touched and changed by people truly caring about them. School teachers say that the kids are not missing much school because they have a coat that keeps them warm, where before they had to wear two to three sweatshirts. Last year the MFD raised $50,000 to purchase 4,000 coats. During three days in late June, the MFD has solicited funds for Operation Warm and raised close to $90,000. Chief Washington thanked all of the employees of the MFD who do an outstanding job for the City. He further thanked the Mayor's Office, the FPC, the Budget Office, City Attorney's Office, the DER and the Fire Bell Club. Commissioner Cabrera moved approval, seconded by Commissioner O'Hear. The motion carried unanimously.

5. POLICE DEPARTMENT:

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

TO OFFICE ASSISTANT III, from Police District Office Assistant, effective August 3, 2014:

VENEITTA A. CLAYBROOKS.

b) The Director presented correspondence from Chief Flynn requesting approval to reappointment Regenia A. Love to the position of Police Telecommunicator, effective August 4, 2014. Commissioner O'Hear moved approval, seconded by Commissioner Hein. The motion carried unanimously.

c) The Director presented correspondence from Chief Flynn notifying the Board Police Officer Stephanie L. James was suspended from duty for thirty days, effective July 11, 2014.

d) The Director presented a communication from Chief Flynn regarding the MPD's Organizational Chart. He stated under the FPC rule, changes require a one meeting holdover. Inspector Hoerig stated the changes involve putting the right box under the right commanders. The Chair stated this will be held over until the September 4, 2014 meeting.

e) The Director presented SOP 060 - Animals. He stated this SOP relates to how officers deal with dogs in particular. Reviewing the number of dog shootings as part of the use of force with Dr. Brandl, the MPD is in the process of instituting a new training regimen. In the roll call version, on page 2, subsection 3–Controlling an Animal with Less Than Deadly Force, is a matter of primary public concern and states "[M]embers shall consider utilizing means other than deadly force in all circumstances when it is practical," so it puts a bit of an onus on officers to use deadly force when it is merited, but also requests them to use an alternative method when the situation allows it. It is a community trust issue and that is why the MPD wants to modify the policy and their training. Every time a dog is shot it creates a community trust issue in that household and the community. It takes years to heal, especially when a family pet is involved. The MPD deserves credit on this because it is not something you would see in a lot of other departments as far as the wording and asking officers to consider less than deadly force. It is cutting edge for dealing with dogs. Inspector Hoerig stated there are quite a few changes to the policy that coincides with some of the training that is going on. The most significant change is encouraging members to consider using other means than deadly force, if appropriate, while at the same time keeping citizens as well as officers safe from vicious dogs. She further stated that a lot of the changes are for the MPD's accreditation with the Wisconsin Law Enforcement Accreditation Group (WLEAG). Some of the changes are just formatting so the MPD matches the best

practices and what WLEAG recommends. When the MPD is audited next year by WLEAG, the auditors will have to look at the policies to insure that the MPD has the appropriate language. Commissioner Morgan stated each SOP will be taken individually, and for each one the public will be asked if they wish to be heard. Commissioner Morgan asked for any comments from the public and no one came forward. She then asked for a motion on the SOP. Commissioner O'Hear moved to hold this over until the September 4, 2014 meeting so the public has an opportunity for input, seconded by Commissioner Wilson. The motion carried unanimously.

f) The Director presented SOP 070 – Citation Procedures. The Director stated this SOP refers to the process officers follow when they are issuing citations. He further stated the vast majority of this procedure for the Board's review is administrative and would not normally be before them because it controls what the officers do on a day-to-day basis. He pointed out the fingerprint requirement on page 6, section 070.30. The current citation procedure requires the officer to ask for a fingerprint in each and every instance. That is another community trust issue. It puts the officer in a position of asking a citizen who is otherwise cooperative who has a valid Wisconsin driver's license or picture ID to now be fingerprinted at the scene of a traffic stop or some other instance. It creates a problem for the officer in some instances because he may have had a cooperative person and now he has a person who does not want to give their fingerprint. This creates a constitutional question of whether we can require it in every instance especially if there is no visible question about a person's identification. The proposal is to go back to a previous policy that required an officer to get a fingerprint when a person's identification was in question. One example would be when a person did not have their driver's license on themselves, or when based on the information at that incident the officer might have a question about the person whether that is the person they say they are. The municipal court was notified to attend this meeting, but they declined to do so. In looking at the history of this SOP, at one point it was requested by the municipal court to fingerprint everybody so that if someone came into court stating it was not them, that it was someone else using their name, they could quickly check the fingerprint on the back of the ticket and either dismiss the ticket or take other action. It has now turned into a community trust issue where we have to evaluate whether that is necessary. Inspector Hoerig stated this is a situation where the MPD is stuck in the middle. The MPD understands the community's trust, but it has been made clear to them through the courts that there is an ongoing issue with people coming in stating it was not them. The issue has gone back and forth and the MPD's policy goes by what the court is requesting of them. Commissioner Morgan asked what happens to the fingerprint. Inspector Hoerig stated it stays with the citation and the municipal court contacts the MPD and uses their lab to verify the fingerprint if needed. Commissioner Cabrera asked Inspector Hoerig to clarify their position on the fingerprinting. Inspector Hoerig stated they have left their policy this way since 2000 when it was strongly suggested to them by the municipal court to obtain the fingerprint. Chief Flynn stated it was not that they want to keep the policy this way, but the municipal court said they desire that the fingerprints remain on the citations. The Director spoke with the municipal court administrator and she indicated some of the municipal judges do not like this proposed change, but she understands there are two sides of a coin. She understands there are constitutional issues and community trust issues. The Director further stated if there is an issue with a person's identity in court, the judge should set it for trial, have the officer come in and do an investigation of whether that person was or was not the right person. They can then do an investigation and issue an obstructing charge against the person using the false identification. Commissioner Cabrera asked if they are non-criminal citations. The Director stated they are all municipal court citations. Commissioner Wilson asked if an individual is stopped and the officer gets all their information from them, are they asked for a fingerprint or are they required to give it. Inspector Hoerig stated they ask the person. If someone is unwilling to give a fingerprint, a supervisor is called to the scene and they make a determination if the person will be arrested or if they are satisfied with the identity. It is rare that someone is arrested; most people give their fingerprint. Commissioner Cabrera asked if they are aware that they do not have to give their fingerprint. Commissioner DeVougas stated he believes the proposal is in-between the constitutional public trust issue and the MPD's burden to be able to prove who this person is for the courts. He is comfortable with the 1997 language. Commissioner Cabrera stated she would like to have that changed to include passports since not everyone has a state ID or driver's license and a passport would be just as valid as their driver's license. She further stated in minority communities great majorities do not have driver's licenses or state IDs, but in particular for Latinos, they have passports. Commissioner Morgan asked Inspector Hoerig if passports are included as a valid identification in the current policy. Inspector Hoerig stated in the prior

policy it stated a Wisconsin ID, driver's license, military ID and passports were accepted. She further stated they can add those forms of identification to this section. The MPD went to the municipal judges and presented the proposed policy to them and asked them if they would accept it. Inspector Hoerig stated the MPD is in the middle since they need to issue the citations, but also need the court to work with them. Often times an officer is not going to be able to get on the stand and say that was the person he stopped. They rely on the officer to be able to agree that they have properly identified the person. As stated in the MPD's letter to the Board, the judges have indicated that some citations would have to be dismissed if the MPD did not put fingerprints on the citations. Commissioner O'Hear asked if the fingerprints ever end up in a database. Inspector Hoerig stated that they do not since the citations go to the courts. The court uses the fingerprints for identification if there is a question. He then asked if the court enters them into a database. Inspector Hoerig stated she did not know. Commissioner Cabrera asked how they are identifying a person if they are not entering fingerprints into a database. Inspector Hoerig stated if there is a question of someone's identity when they come to court, the MPD takes the fingerprint and checks to see if it matches anyone they have on file in their AFIS system. Commissioner Cabrera stated she is more comfortable with the previous policy. Commissioner Morgan asked for any comments from the public.

Darlene Johns asked if a minor receives a citation, are they expected to provide identification. They don't have a passport or a Wisconsin ID. They may have a school ID, so they should be added to the list of valid identification. If the fingerprints are not stored in a database, how do they compare the fingerprint on the citation with those in the database? Someone from the court needs to explain the process.

Solana Ramos believes it is a waste of time to fingerprint people who are stopped. They are already upset that they have been stopped and were on their way to somewhere and now are stopped and asked for identification.

Amanda Well appreciates that we are having this conversation. She supports using passports as identification and if there are problems with identification, then fingerprints should be obtained.

Carmen Cadrera stated she shares the concerns with the other citizens. She will not give her fingerprint to an officer who does not believe her ID is valid. If he arrests her and takes her to the courthouse, she will then give her fingerprint. If she is going to contest the citation, why should she give her fingerprint. She further stated she does not like her fingerprint to be stored somewhere she does not know and for how long.

Rick Banks, a student at UWM asked why a supervisor is brought in when a person refuses to give their fingerprint at an incident. He stated there will not be any new information to provide to the supervisor.

Emilio DeTorre asked since the earlier version was from 1997 and now the current one is from 2001, driver's licenses and passports have changed dramatically since then. He is wondering if the security conditions such as forgeries or falsifications of documents may have caused concerns by the municipal court.

Commissioner Cabrera asked Inspector Hoerig to clarify what happens when a supervisor is brought to the scene as to whether the person is arrested. Inspector Hoerig stated the supervisor would look at the totality of the circumstances, including the demeanor of the person, look at the documentation, what is the traffic violation, what is the likelihood the identification is false. The supervisor is another level to look at what is going on so it's not just the officer and the individual and to see if there is any legitimacy to the identification of the person. It is also to ensure that the officers are not avoiding what is in the policy. Commissioner Cabrera asked what the person would be arrested for. Inspector Hoerig stated the person can be arrested for the traffic violation and municipal citations. Commissioner Cabrera stated she feels that is extreme. She asked if the MPD is okay with or without the fingerprint. Inspector Hoerig stated the MPD's concern is that all of the traffic citations go through the municipal court. She does not know how this impacts the court, or how the court is going to react. The municipal court asked the MPD to fingerprint everyone who is given a citation. Chief Flynn stated right now the officer does not have discretion, so everyone is fingerprinted on the ticket that the court receives to verify the identification of the defendant. If they refuse, the supervisor is called and looks into the qualification of the identification the person has. At that point the supervisor makes the judgment whether the correct person was issued the citation. In some circumstances, there will be a

person who does not have valid identification that refuses to be fingerprinted. For all we know, we have an unlicensed driver, with no identification and refuses to put their fingerprint on the ticket. That person can be arrested for being an unlicensed driver if they do not have any identification. It is an offense a person can be arrested for. The MPD usually does not arrest the person if they have some other form of identification. The person is given the citation and someone else takes the car home. The officer uses discretion to decide whether or not the available identification is sufficient. We will monitor the next six months to a year on the cases that are getting dismissed; maybe none will be. We have no way of knowing since they have been handled the same way for years. The challenge then will be why one's identification is not good enough and they have to be fingerprinted and someone else's identification is good enough and they do not need to be fingerprinted. It can go either way; there is no simple answer. Commissioner Cabrera stated they are not crimes, they are forfeitures. She asked how often they are called upon to run a fingerprint. Inspector Hoerig stated often, but they do not have a number. The indication from the judges is that this happens more than you think. If they don't have the fingerprint, they have to go on the officer's recollection that it is the person they stopped. It is difficult to change the policy back and forth. The officers try to use good discretion out in the field as it relates to citations and not make it more cumbersome for the individual stopped. In all the years she was in Internal Affairs, she never received a complaint about a fingerprint on a citation. Commissioner DeVougas stated someone who does not have a valid driver's license is probably already in trouble, so he is comfortable with the 1997 language and is fine with holding over the SOP. Commissioner Hein stated to be consistent with SOPs we want to have community input, we need to hold it over, but if the municipal court is interested in keeping the current policy, they need to come and state why it needs to be the same. If they decline to come, why should they be taken seriously by the Board. She requested the Director to request someone from the municipal court to speak with them regarding the fingerprint requirement. Commissioner O'Hear moved to hold this over until the September 4, 2014 meeting, seconded by Commissioner DeVougas. The motion carried unanimously.

g) The Director presented SOP 085 – Citizen Contacts, Field Interviews, Search and Seizure. He stated the vast majority of the changes were made to conform to the accreditation process. He stated last year the MPD restricted consent searches on when officers could request a consent search, under what circumstances, how they would be conducted and a reporting system was instituted for all consent searches. The Director read the modified paragraph regarding consent searches which is located on page 6 of the roll call version of the SOP, section 085.55. Commissioner Cabrera requested the word "pretext" be removed from section 085.30-Vehicle Contacts. She stated it sounds like the officers are looking for an excuse to stop people and to make it lawful. Inspector Hoerig stated it is common language in law enforcement to relate to those types of stops. Chief Flynn stated it is a standard which has withstood legal scrutiny. It means the MPD is using traffic enforcement in high crime neighborhoods; our main goal is to reduce crime. Traffic enforcement means lawful traffic stops. Commissioner Cabrera stated lawful traffic stops make sense, pretext stops do not. Chief Flynn asked if she is concerned with how it sounds and if so, they can change the word. Commissioner DeVougas stated in the legal context it could be looked at as a loaded term. Chief Flynn stated they want to lawfully stop people and to rely on neutral facts, which is the state of the vehicle and driving behavior. He stated they are aware of the fact that if they do traffic stops in high crime neighborhoods, they are going to be stopping disadvantaged people; the officers have been guided to issue warnings instead of citations. Eighty percent of their traffic stops, which are based on traffic violations, result in warnings. He further stated they are happy to get rid of the word, but they did not want to send a message that they are doing traffic stops because their primary goal is traffic safety. It is a goal, but another goal is to do traffic enforcement in places where there is high crime in order to present police presence and interact with people who may be violating the law. That is why they emphasize warnings instead of citations. Commissioner Morgan asked if anyone from the public would like to be heard.

Chris Ahmuty stated the word pretext should remain in the policy because that is what the police are doing and it is an admission that they are doing it. The Chief is right that after the Whren decision, the Supreme Court has allowed pretextual stops in terms of the fourth and fifth amendments, but there still is the issue of whether or not the way the police strategy is played out. Under those circumstances it should be looked at again as a violation of the fourth and fifth amendments. It could lead to a fourteenth amendment violation, as in the Floyd case in New York City where the stop and frisk policy of the NYPD was struck down by a

federal judge. Whether the way they are doing it is lawful, is problematic. Commissioner O'Hear moved to hold this over until the September 4, 2014 meeting, seconded by Commissioner Hein. The motion carried unanimously.

h) The Director presented SOP 400 – Off-Duty, Extra Duty and Special Event Employment and stated the City Attorney's Office requests that this be held over until the September 4, 2014 meeting. Commissioner O'Hear asked if the City Attorney's Office will be issuing a legal opinion on this SOP. The Director stated they will be reviewing one particular portion of the SOP and giving their opinion on it. Commissioner O'Hear asked if the City Attorney's Office is requesting the holdover of the SOP because they needed more time to complete their review. The Director agreed. Mike Crivello, Milwaukee Police Association President spoke regarding Section 400.10-Definitions and the note on page 2, section B which states the "[E]ligibility for contract service employment is restricted to members that are residents of the city of Milwaukee." Mr. Crivello stated the statement clearly is an attack on those officers that would exercise their legal and lawful right to raise their families outside the city limits. The SOP inhibits the member's ability to earn a salary equivalent to what he would have been able to earn if he did not move outside the city. This creates a two class police officer force. Mr. Crivello does not believe there is a need for this SOP; it is ridiculous and is considered embarrassingly ill conceived. While excessive and unwarranted, it appears to be nothing more than retaliatory. Both workload and morale are negatively impacted by this issue. Currently it is already difficult for the department to fill all the extra duty assignments. He asks the Board to examine and declare the origin of the insertion. He would like to know why someone thinks that someone living outside the city doing the same job as someone inside the city cannot make the same salary. He also requests the Board to deny the passage of the SOP without the deletion of that requirement. Commissioner O'Hear moved to hold this over until the September 4, 2014 meeting, seconded by Commissioner Hein. The motion carried unanimously.

i) The Director presented SOP 440 – Early Intervention Program and asked the Board to make note of page 2, Section 440.30-Performance Indicators and Benchmarks. He stated he believes it is a step forward for the MPD to add the two additional benchmarks on what would constitute a notification in the program, which include any battery related personnel investigation and any alcohol related personnel investigation. The MPD has made several changes over the past few years with the program. Commissioner O'Hear asked why they were not already encompassed in the sustained/not sustained personnel investigation. The Director stated it comes into play when the MPD calculates how many of each benchmark is present in a time period that would necessitate an intervention. Commissioner Wilson moved approval, seconded by Commissioner DeVougas. The motion carried unanimously.

j) The Director presented SOP 455 – Critical Incident Review Board and stated it is a relatively new procedure, being implemented about one and one-half years ago. He asked the Board to review page 3, Section 455.15, subsection B2-Executive Review. The MPD has revised this SOP to include a section that indicates the report shall be submitted to the Chief of Police, Fire and Police Commission and the Risk Management Bureau. This clarifies and announces to the public that the Board does receive the reports of the Critical Incident Review Board. This SOP streamlines and improves the process and makes it procedurally better for the MPD. Chris Ahmuty requested the Board to hold it over and asked for there to be more transparency. He believes this is important given the recent experience with the new state law on review of deaths in custody. Commissioner O'Hear moved to hold this over until the September 4, 2014 meeting, seconded by Commissioner Hein. The motion carried unanimously.

k) The Director presented SOP 755 – Recording of Police Activity and stated it is a brand new policy. He stated the policy spells out the fact that the public has the unambiguous first amendment right to record police activity in public spaces and lays out the parameters. The MPD has been following this policy for about the last two years and this is the direction training has taken for all officers. Commissioner Morgan stated she observed this during her ride-along with a couple of officers. Commissioner Wilson moved approval, seconded by Commissioner DeVougas. The motion carried unanimously.

The Director stated at the next meeting there will be the elections for officers within the Board for Chair and Vice Chair.

6. PUBLIC COMMENT:

Joyce Reed, a citizen of Milwaukee, spoke regarding her contact with the MPD.

Commissioner O'Hear expressed his appreciation to the MPD for their work on the SOPs. He also thanked the members of the public who came to contribute their perspectives for the Board's deliberations.

7. ADJOURNMENT:

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

The meeting concluded at 8:10 p.m.

Respectfully submitted,

Michael G. Tobin
Executive Director

MGT:cj