

October 18, 2012

A Regular Meeting of the Board of Fire and Police Commissioners was held on the above date, commencing at 5:43 P.M.

PRESENT: Commissioners: Sarah W. Morgan, Chair
Kathryn A. Hein
Paoi X. Lor
Richard C. Cox
Michael M. O'Hear

ALSO PRESENT: Mark Rohlfing, 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 4:32 p.m. to 5:38 p.m. pursuant to Section 19.85 (1) (g) Wis. Stats. for the purpose of conferring with a representative of the City Attorney's Office who will render oral and written advice with respect to litigation in which the board is or is likely to become involved.

The Director presented for adoption minutes of the Regular Meeting of October 4, 2012. Commissioner Cox moved approval of the minutes as presented, seconded by Commissioner Hein. The motion carried unanimously.

1. UNFINISHED BUSINESS:

a) The Director returned to the Board a request for a temporary residency exemption from Police Telecommunicator Catherine DeFord to reside in her Franklin apartment until her one-year lease expires April 30, 2012. Ms. DeFord appeared initially before the Board on September 6, 2012 and the Board requested Ms. DeFord investigate options with her landlord regarding her ability to sublet her Franklin apartment. Ms. DeFord appeared before the Board and submitted a letter from her landlord indicating she cannot break her lease and she would be responsible for rent until the end of her lease term if she vacated the apartment. Ms. DeFord also indicated that her lease does not allow her to sublet her apartment. Ms. DeFord's landlord indicated there are two open apartments in her complex and the landlord would seek to lease those apartments to any potential renter Ms. DeFord would find to sublet her apartment. Commissioner Cox indicated Ms. DeFord has until December 25, 2012 to comply with the residency requirement and asked the Board to wait until December to decide the issue. Rather than approve Ms. DeFord's request, the Chair asked Ms. DeFord to return to the Board on December 6, 2012, at which time they will consider her request.

b) The Director presented the Fire and Police Commission's contract with PRI Management Group (PRI) which was finalized last week by the Purchasing Department. The Director summarized the services PRI will provide by saying there would be four different phases to the project. The first phase, according to the Director, has already started and involves PRI reviewing and assessing the documentation that supports the Milwaukee Police Department's (MPD's) audit of the crime statistics. Additionally, PRI is working with MPD to establish independent remote access to the Tiburon module to allow PRI to conduct an independent review. Further, PRI will be able to randomly select filed reports and analyze the reports to determine if the MPD analysis done during the audit was valid. If, according to the Director, the audit is invalid PRI will make recommendations that will ensure, moving forward, the analysis is done correctly.

The second phase, according to the Director, will continue the work MPD started several months ago with Tiburon regarding the program, the module, and the drop-down menu. The Director said PRI will continue working with Tiburon and help MPD identify what else needs to be done with regard to the Tiburon process. The third phase involves PRI looking at the workflow of the department; i.e., business practices, a

review of records management, interviews with and observations of various department members, and a review of the processes and Standard Operating Procedures (SOPs). According to the Director, phase four is the last phase and PRI will produce a final report that will assist MPD with policy development (SOPs, business practices, etc.). The Director stated these four phases should be completed in approximately three months. In addition, PRI will remain available for consultation following the completion of phase four to answer questions and/or help with any implementation issues.

The Director said the final contract is available as an agenda item on the Fire and Police Commission (FPC) website at <http://city.milwaukee.gov/ImageLibrary/Groups/cityFPC/agendas2/121018Agenda.pdf>. And, to be clear, the Director stated PRI will not be doing a full-scale audit of the MPD, but rather will sample reports, issue an opinion as to whether MPD's internal audit was done correctly based upon a scientific sample, and will help move the department forward to ensure this does not happen again. Several Board members asked Chief Flynn questions regarding the Tiburon system, the department's internal audit, and the accuracy/reliability of nationally reported crime statistics. In closing, the Director said PRI will make a final presentation to the FPC at the completion of the audit.

2. NEW BUSINESS:

a) The Director presented correspondence dated October 12, 2012, from staff wherein John Mesich, Radio Communication Systems Manager of the Milwaukee Police Department requests a temporary exemption of the City residency requirement due to his inability to sell his Grafton home. Mr. Mesich lives in the home with his wife and two young children. Mr. Mesich indicated he placed his home for sale in July and has had a lot of traffic, but no offers to date. Mr. Mesich recently lowered the asking price for the home. Commissioner Morgan asked whether Mr. Mesich had looked into renting his home in case it does not sell. Mr. Mesich said he is looking into options for renting his Grafton home as well as the possibility of renting in Milwaukee. Mr. Mesich requested a six month extension. Commissioner Cox stated that while he understands the circumstances, he would like to hear a status update in two months rather than granting a six month extension. Commissioner Cox moved to approve a two month extension, until the first meeting in January, 2013, at which time Mr. Mesich will report his status to the Board and the Board will reassess the extension, seconded by Commissioner O'Hear. The motion carried unanimously.

b) The Director reported to the Board regarding the Common Council's approval of a resolution to televise the Fire and Police Commission meetings. The Director said this was accomplished in large part because Alderwoman Milele Coggs spearheaded the effort to allow broadcast of FPC meetings on City Channel 25. The Director said this affords the FPC the opportunity to speak more directly to the community and provide insight into the workings of the FPC. The Chair invited Alderwoman Coggs to speak to the FPC. Alderwoman Coggs said she and Alderman Willie Wade initially met with the City Clerk's office, the Public Relations office, and Channel 25 in an effort to televise the FPC meetings. According to Alderwoman Coggs, there is a lack of understanding in the community regarding the FPC. Alderwoman Coggs said she believes televising the meetings will aid in transparency and accountability of the FPC with the community because it will provide individuals who cannot attend in person the opportunity to view meetings. Alderwoman Coggs said it took several months to begin televising FPC meetings because legislative action was required. In addition, Alderwoman Coggs expressed thanks to the City Clerk and the co-sponsors of the legislation, Aldermen Wade, Hamilton, and Perez, for helping to bring this before the Common Council. Alderwoman Coggs said this legislation passed unanimously because the Council recognizes the importance of transparency in dealing with fire and police issues. Alderwoman Coggs said she is hopeful that this is the beginning of a whole lot more transparency with the community so they can see how decisions are made and see the process as well and she hopes that it leads to a greater level of understanding for how things are handled with fire and police. The Chair thanked Alderwoman Coggs for her comments.

3. FIRE DEPARTMENT:

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

TO FIRE LIEUTENANT, on a temporary and waiver basis, from expired eligible list established December 17, 2009, effective October 28, 2012:

#37 – RICKY L. PRICE, JR.

*#36 declined promotion to Fire Lieutenant in writing.

b) The Director presented correspondence dated October 2, 2012, from Chief Rohlfing, wherein he notifies the Board that Firefighter Jason L. Leistiko has returned from an unpaid military leave of absence granted May 29, 2012, effective October 2, 2012.

4. POLICE DEPARTMENT:

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

TO POLICE TELECOMMUNICATOR (REGULAR), from Police Telecommunicator (Seasonal) eligible list established July 1, 2010, effective October 28, 2012.

#10 – JESSICA KLOS.

TO POLICE TELECOMMUNICATOR (REGULAR), from Police Telecommunicator (Seasonal) eligible list established April 19, 2012, effective October 28, 2012:

#01 – BEATRIZ FERREIRA, #03 – SHEMEKA ADKISSON, #13 – ROBIN GARRETT, and #16 – JASMINE WORDS.

b) The Director presented correspondence dated October 3, 2012, from Chief Flynn, wherein he presents a request from Police Dispatcher Gina F. Sellers for voluntary demotion to her former rank of Police Telecommunicator (Regular), to be effective October 28, 2012. Commissioner Cox moved approval of the request, seconded by Commissioner Lor. The motion carried unanimously.

c) The Director presented correspondence dated October 10, 2012, from Chief Flynn, wherein he notifies the Board that Mr. David Heard has been granted a one year extension to his leave of absence for the purpose of filling the position of Community Relations Manager of the City of Milwaukee Fire and Police Commission. The leave shall expire November 14, 2013, and may be renewed upon request.

d) The Director presented correspondence dated October 10, 2012, from Chief Flynn, wherein he notifies the Board that Police Officer Christopher Bowers returned from an unpaid military leave of absence which commenced May 4, 2012, effective October 4, 2012; Police Officer Dwight Copeland returned from an unpaid medical leave of absence which commenced May 26, 2012, effective October 1, 2012; Police Officer Bradley Nickel returned from an unpaid military leave of absence which commenced July 3, 2011, effective October 1, 2012; and Office Assistant I Sarah Smith was granted an unpaid maternity leave of absence, effective September 18, 2012, and it is anticipated she will return to duty on November 27, 2012.

e) The Director presented Chief Flynn who provided a communication regarding the MPD policy, procedure, and training response to the Derek Williams incident. Chief Flynn said MPD training exceeds the requirements of the State of Wisconsin in order to ensure officers are well trained in areas that may develop into critical incidents. Chief Flynn said the MPD strives to be a learning organization because police work deals with critical incidents, especially critical incidents that have never been dealt with before,

and it is important to evaluate policies and procedures based upon critical incidents. Chief Flynn gave the example of MPD's revision to the Vehicle Pursuit policy that was re-evaluated based upon fatalities related to police pursuits. He said the policy was evaluated in light of those critical incidents, changed, and there has been a 76% decline in police pursuits and, additionally, an almost 40% decline of injuries arising out of police pursuits as a direct result of the policy change. That being said, according to Chief Flynn, policies were re-evaluated in response to the critical incident of the in-custody death of Derek Williams. Chief Flynn said officers did not appropriately respond to or diagnose what was a pre-existing medical condition. Chief Flynn also said officers responded conventionally to someone they perceived to be complaining but otherwise seemed to be in good health. In the short term, according to Chief Flynn, MPD has created a policy that removes officer discretion regarding an in-custody individual's medical issues and requires officers to call for an ambulance. Second, according to Chief Flynn, MPD has created a Critical Incident Review Board (CIRB) to analyze critical incidents to determine what went wrong that can be corrected through training, standards, and changes in policy. Finally, Chief Flynn said MPD has changed training to recognize that respiratory distress can present in ways other than an individual who is not breathing or has passed out. Chief Flynn said recruits are being trained to recognize respiratory distress more quickly and to err on the side of caution and summon medical assistance. In addition, according to Chief Flynn, in-service training has been modified. Chief Flynn said it is the department's responsibility to learn from these incidents and make the appropriate changes to training.

The Chair asked how the policy change regarding medical conditions is being communicated to department members. Chief Flynn responded that it is promulgated throughout all departments and read at roll call. The Chair asked if the findings of the CIRB would be reported to the Board. Chief Flynn said he could do that and said the CIRB was comprised of individuals from the Training Academy, Internal Affairs Division, and subject matter experts from various bureaus so it is a multi-disciplinary board. The Director stated that the CIRB policy is written so that the CIRB reports its findings to the Chief and the FPC Executive Director and then the Executive Director presents the information to the Board. According to the Director, the FPC Citizen Board will always have the final say on what course of action the Police Department takes. The Director stated that if there is any disagreement between the Chief and the Board regarding policy and procedure the Board will take into account the counsel and advice of the Chief, but the Board will have the final say. Finally, the Chair asked Chief Flynn where the medical information regarding respiratory distress that is being disseminated during training was obtained. Chief Flynn responded that he delegated that to the Training Academy staff, but he would let her know.

f) The Director presented a request from Chief Flynn to change the department's organizational structure with regard to the Internal Affairs Division. The Director said the request is to move the Internal Affairs Division from the Administration Bureau to the Office of the Chief. The Chair requested that Chief Flynn provide background regarding the request. Chief Flynn said he felt the chain of command was too long under the current organizational structure and he felt he was not getting enough information fast enough in order for him to be proactive in certain situations. Chief Flynn said the previous Internal Affairs reorganization did not go far enough and he felt he needed to have the Division report to him directly. In addition, Chief Flynn said he wanted to signal to the department that the function of Internal Affairs was a critical function in the organization and would get his personal attention.

Commissioner O'Hear asked if the top-to-bottom review has occurred or would occur following the Internal Affairs reorganization. Chief Flynn indicated the Inspector in charge of the reorganization would perform a top-to-bottom review. The Chair asked whether the Board would like to approve or hold over for more information. The Director said it would be helpful to get more information in writing from the department regarding best practices from other departments so the FPC Research Analyst could review the data. Commissioner Lor requested that the department provide information regarding organizational changes in advance of, or along with, the chart in order for the Board to make a decision. Commissioner Hein moved to hold to the call of the Chair, seconded by Commissioner Lor. The motion carried unanimously.

5. PUBLIC COMMENT:

Edgar Brooks spoke on behalf of his family to thank the Milwaukee Fire Department (MFD) for saving his father seven years ago. Although his father recently passed away, he wanted to thank the MFD for helping his father and giving him and his family additional time with their father. In addition, Mr. Brooks, a former Milwaukee Firefighter, asked the Board to reconsider his request for reinstatement.

Chris Ahmuty, Executive Director of the American Civil Liberties Union (ACLU) of Wisconsin, voiced support for the Board's decision to hold over the MPD request for reorganization of the Internal Affairs Division. Mr. Ahmuty referenced a letter he sent to Alderman Murphy where he discussed questions he had related to the proposed reorganization. In addition, Mr. Ahmuty said one way for the MPD to avoid litigation as a result of the U.S. Attorney and the special litigation section of the Department of Justice (DOJ) pattern and practice investigation is for the MPD to institute reforms before told to. Mr. Ahmuty referenced information on the DOJ website recommending that departments avoid 'chain of command' investigations. Mr. Ahmuty questioned whether that was the same thing that Chief Flynn was advocating with the Internal Affairs reorganization. Mr. Ahmuty asked what rank the individual would be who would be heading up the Internal Affairs reorganization. Finally, Mr. Ahmuty asked what "Inspections" is as listed under the Office of the Chief on the proposed organization chart.

Jonathan Safran, Attorney for the family of Derek Williams, indicated he appreciated that the department is doing additional training as it relates to health emergencies, but voiced concern that it wasn't the policy before. Second, he is concerned by the Chief's statement that the officers involved did not recognize that Mr. Williams had a pre-existing medical condition. Mr. Safran stated that he was unsure whether that had been determined conclusively as to whether Mr. Williams was having a sickle cell crisis. Further, Mr. Safran said he was unsure that the officers could have or would have known Mr. Williams had a pre-existing medical condition. Mr. Safran said he was unaware that officers were trained to inquire about pre-existing medical conditions and he is concerned that that is being used as an excuse. Finally, Mr. Safran questioned, as he did at the previous FPC meeting, whether a Use of Force (UOF) report was generated from this incident. Mr. Safran stated he would like the Board to request if there was a UOF generated and if not, why not?

Juan Carlos Ruiz spoke regarding the changes proposed by Chief Flynn. Mr. Ruiz said he realizes there are good police officers and there are bad police officers. Mr. Ruiz said that bad police officers do not recognize that someone is going to die, but when this tape is viewed one has to realize that this is racist behavior on the part of the officers. Mr. Ruiz said that the real issue is how some members of the department deal with Latino, African American, and Hmong community members. If Derek Williams were not a minority, he would have been helped. According to Mr. Ruiz, it's not just that someone cannot recognize a pre-existing condition, but it is deeper than that. Mr. Ruiz said he knows of two individuals in the Latino community who did not report assaults because of the bad relationship the Latino community has with the police department. Mr. Ruiz said these are just two assaults that are not part of the crime statistics. He said MPD is moving forward in the wrong direction and needs to realize there are bad police officers and address the deeper racial issues affecting the department. Mr. Ruiz also stated that he does not feel the issues can be addressed in two minutes and feels the Fire and Police Commission process is not democratic or inclusive and does not allow for community members to communicate concerns or address how community members can be part of building a stronger and safer Milwaukee.

7. ADJOURNMENT:

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

The meeting concluded at 6:45 P.M.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael G. Tobin".

Michael G. Tobin
Executive Director

MGT:kj