

November 1, 2012

A Regular Meeting of the Board of Fire and Police Commissioners was held on the above date, commencing at 5:32 P.M.

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

ABSENT: Commissioner: Richard C. Cox

ALSO PRESENT: Mark Rohlfig, Chief, Milwaukee Fire Department; and James Harpole, Assistant Chief, representing the Milwaukee Police Department.

The Chair reconvened the Board in Regular Session, having previously met in Executive Session from 3:32 p.m. to 5:28 p.m. pursuant to Section 19.85 (1)(c) Wis. Stats. to consider employment, promotion, compensation or performance evaluation data of any public employee over whom the Board has jurisdiction or exercises responsibility, to wit: promotion of Deputy Chief, Fire to Assistant Fire Chief; promotion of Battalion Chief, Fire to Assistant Fire Chief; promotion of Battalion Chief, Fire to Deputy Chief, Fire; and promotion of Fire Captain to Battalion Chief, Fire.

The Director presented for adoption minutes of the Regular Meeting of October 18, 2012. Commissioner O'Hear moved approval of the minutes as presented, seconded by Commissioner Lor. The motion carried unanimously.

1. UNFINISHED BUSINESS:

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

TO ASSISTANT FIRE CHIEF, from Deputy Chief, Fire, effective October 28, 2012:

MICHAEL T. ROMAS.

TO ASSISTANT FIRE CHIEF, from Battalion Chief, Fire, effective October 28, 2012:

DANIEL C. LIPSKI.

TO DEPUTY CHIEF, FIRE, from Battalion Chief, Fire, effective October 28, 2012:

AARON D. LIPSKI.

TO BATTALION CHIEF, FIRE, from Fire Captain, effective October 28, 2012:

MICHAEL M. BLACKWOOD.

b) The Director presented correspondence dated October 19, 2012, from Police Officer Matthew D. Bongard wherein he provides a status update for his temporary residency exemption. Through his correspondence, Officer Bongard indicated there is a continuing family medical need for his residency exemption. Commissioner O'Hear moved to extend the temporary residency exemption for a one (1) year period, seconded by Commissioner Hein. The motion carried unanimously.

The Director presented correspondence dated October 26, 2012, from Heavy Equipment Operator Nate Valley wherein he provides a status update for his temporary residency exemption. Through his correspondence, HEO Valley indicated his marital status and living situation have not changed. The Chair said, in the future, she would like more background information in correspondence from HEO Valley regarding his exemption. Commissioner O'Hear moved to extend the temporary residency exemption for a one (1) year period, seconded by Commissioner Hein. The motion carried unanimously.

c) The Director presented correspondence dated October 29, 2012, from Chief Flynn wherein he outlines the reasons for the previously requested departmental organizational structure change related to the Internal Affairs Division. Assistant Chief Harpole stated Inspector Kurt Leibold would be in charge of Internal Affairs and would have additional responsibility related to auditing and management functions. Assistant Chief Harpole said having Internal Affairs report directly to the Chief is a traditional structure that many other departments have. As the disciplinarian for the Department, it is very important for the Chief to have a direct link to the Internal Affairs Commander and will result in better investigations and decision making.

Commissioner Morgan asked if Inspector Leibold's office would be co-located in the Chief's Office and in the Internal Affairs Division at the Safety Academy. Assistant Chief Harpole said it would be in order for Inspector Leibold to have daily contact with the Chief and the Executive Staff as well as daily contact with Captain Gary Gacek, the day-to-day commander of Internal Affairs. This will allow matters of discipline and misconduct to be discussed with the Chief and the Executive Staff as needed.

The Director asked Assistant Chief Harpole if it was correct that the Department surveyed other departments and noted that a structure similar to this was in place at one time in the department. Assistant Chief Harpole said other departments were surveyed and the Department did have a similar structure in the past. Commissioner O'Hear said he appreciated receiving the additional information regarding the proposed reorganization and felt it would strengthen the Department's ability to hold officers accountable. Commissioner O'Hear moved approval of the departmental reorganization, seconded by Commissioner Lor. The motion carried unanimously.

2. NEW BUSINESS:

a) The Director presented correspondence dated October 25, 2012, from staff proposing five changes to the Milwaukee Police Department (MPD) Use of Force (UOF) Reporting requirements. The Director summarized the proposed changes to MPD SOP 460 as follows:

- "Reasonable belief to use force" reflects what officers are trained to do and does not represent a significant change related to training, but rather puts it in writing.
- "When to File a Report" section reflects a need for more detailed reporting on when officers should file a UOF report; i.e., bodily force (focused or diffused strike, kick, or punch) and decentralization or taking a subject to the ground should require filing a UOF report. Filing a report in these circumstances will help to protect the community and the officer because, if there are any questions, a report and complete investigation will already have been done.

The Director said the Department should review the recommendations and concur that the proposed changes are phrased appropriately and are in line with Department training. The Director also wanted these recommendations to signal to the Department the need to develop the UOF reporting system on the individual officer database. He is aware of the problems with the AIM system, but indicated that whether a new system is needed or not, the project does need to move forward. The Director indicated he would like the Department to report back to the Board as soon as possible because it is important that the SOP changes be implemented in time for the new UOF reporting period beginning in January.

Commissioner O'Hear asked whether, under the new language proposed, a UOF report would have been filed for the Derek Williams incident. The Director said yes because in the Williams incident decentralization

was used. Commissioner O’Hear said that capturing UOF data for individual officers would aid in transparency and accountability.

The Chair asked if the duty to intervene was new. The Director said it is not memorialized in the current SOP, although officers are expected to do it now. At a minimum, officers are expected to speak up and deal with the scene in an appropriate manner. The proposed changes will memorialize the duty to intervene in the SOPs. Assistant Chief Harpole responded that the duty to intervene is codified in the Core Values under Courage and Restraint.

The Chair asked whether Dr. Brandl had reviewed the recommendations to ensure that the proper data will be captured. The Director responded the last two recommendations came directly from Dr. Brandl.

3. EXAMINATIONS:

a) The Director presented a communication from staff regarding the Fire Cadet and Police Aide Open House and application process. David Heard, Community Relations Manager, gave a presentation detailing the Fire Cadet and Police Aide Open House being held at the Safety Academy November 1, 2012 from 6:00 – 8:00 p.m. In addition, Mr. Heard presented the requirements for both Fire Cadet and Police Aide, said applications are being accepted through November 26, 2012, and are available online at <http://city.milwaukee.gov/jobs> and in-person from City Hall Room 706, 200 E. Wells Street.

b) The Director presented for adoption an eligible list for the position of Fire Equipment Dispatcher in the Fire Department, consisting of 50 names. Mr. Heard thanked the Fire Department for their patience with the application and testing process. Commissioner O’Hear moved approval of the list, seconded by Commissioner Hein. The motion carried unanimously.

c) The Director presented for approval an examination announcement bulletin for the position of Police Telecommunicator – Regular and Police Telecommunicator – Seasonal in the Police Department. Mr. Heard said applications will be accepted through November 30, 2012 and are available online at <http://city.milwaukee.gov/jobs> and in-person from City Hall Room 706, 200 E. Wells Street. It is hoped that testing for this position will begin in January, 2013 with an eligible list available by March, 2013. Commissioner O’Hear moved approval of the bulletin, 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 established February 20, 2011, effective November 11, 2012:

#16 – STEVE P. KARNER.

TO FIRE LIEUTENANT, on a temporary and waiver basis, from the expired eligible list established December 17, 2009, effective November 11, 2012:

#38 – DANIEL W. MAKINEN.

TO INVENTORY CONTROL ASSISTANT III, from Fire Mechanic Helper, effective November 11, 2012:

PETER A. WASHINGTON.

b) The Director presented correspondence dated October 22, 2012, from Chief Rohlfing, wherein he notifies the Board that Firefighter Walter D. Price was granted a three-day extension to his unpaid medical leave of absence which commenced on April 20, 2012, and will now expire October 23, 2012. Firefighter Price was approved for duty disability October 22, 2012.

The Director presented correspondence dated October 22, 2012, from Chief Rohlfing, wherein he notifies the Board that Firefighter Michael K. Shea was granted a three-month unpaid medical leave of absence which commenced September 30, 2012, and will expire December 30, 2012.

c) The Director presented correspondence dated October 15, 2012, from Chief Rohlfing, wherein he notifies the Board that Fire Lieutenant Michael E. Nowak has been suspended for five (5) days for violation of Department Rules and Regulations, effective October 15, 2012.

d) The Director presented a communication from Chief Rohlfing regarding Fire Deaths: January 1, 2012 – November 1, 2012. Chief Rohlfing presented historical figures that showed seven (7) fire deaths to date in 2012, ten (10) in 2011, and three (3), the lowest recorded number of fire deaths, in 2010. He said the Milwaukee Fire Department's (MFD) goal is no fire deaths, but they strive for under ten (10) per calendar year. The MFD seeks to impact fire deaths by educating children and the Survive Alive House is vital to this effort. According to Chief Rohlfing, approximately 191,000 children went through the Survive Alive House when it first opened in 2002 and approximately 346,000 have gone through thus far in 2012. Additionally, Chief Rohlfing said the Firefighters Out Creating Urban Safety (FOCUS) program has installed 839 smoke detectors to date in 2012 and is on target for approximately 100/month. The MFD changed the hours of FOCUS to later afternoon/early evening to better reach people when they are home and increased the number of contacts by 30%.

With regard to fire deaths in 2011, Chief Rohlfing said the pattern of fires in the city were spread out quite a bit on the south side, near north, and far northwest side of town. Of the ten (10) fire deaths, smoke detectors were present in two (2) of the residences, six (6) residences had none, it was unknown for one (1) residence due to a building collapse, and it was not applicable in one (1) residence because the fire was self-extinguished. The causes of five (5) of the fires were undetermined, four (4) were accidental, and one (1) was incendiary. Finally, of the individuals who died, seven (7) were adults 40+ years of age, two (2) were adults 20-30 years of age, and one (1) was a 10-year-old child.

With regard to fire deaths in 2012, Chief Rohlfing said the pattern represented a more typical pattern with a concentration on the near-North side which is an older area. Of the seven (7) fire deaths, smoke detectors were in all but one of the residences and in some instances the smoke detectors were going off and some residents were able to evacuate but not all. The causes of four (4) of the fires were undetermined and three (3) were accidental. Finally, of the individuals who died, three (3) adults were 50+ years of age, two (2) adults were 30-40 years of age, and two (2) were children ages one (1) and ten (10) years of age.

5. POLICE DEPARTMENT:

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

TO TELECOMMUNICATIONS SUPERVISOR, from Department of Employee Relations Communications Facilities Coordinator eligible list, contingent upon successful completion of a medical examination and drug screening, effective November 12, 2012:

ALANA QUIGLEY.

TO CRIME ANALYST, from eligible list established June 21, 2012, contingent upon successful completion of a medical examination and drug screening, effective November 7, 2012:

#4 – BRIAN BALDWIN.

TO POLICE DISPATCHER, from eligible list established July 28, 2011, effective November 11, 2012:

#32 – NICOLE BUJE.

b) The Director presented correspondence dated October 26, 2012, from Chief Flynn, wherein he notifies the Board that Police Lieutenant Paul Felician returned from an unpaid military leave of absence which commenced February 22, 2012, effective October 15, 2012; Police Sergeant Shaun Doyne returned from an unpaid military leave of absence which commenced July 3, 2012, effective October 22, 2012; Police Officer Paul Llanas returned from an unpaid military leave of absence which commenced April 30, 2012, effective October 1, 2012; Police Officer Daniel Carrillo was granted an extension to his unpaid military leave of absence which commenced on September 12, 2010, until September 25, 2013; and Police Officer Jill Glidewell (Riley) was granted an extension to her unpaid medical leave of absence which commenced on March 28, 2012, until December 31, 2012.

c) The Director presented correspondence dated October 23, 2012, from Chief Flynn, wherein he notifies the Board that Police Officer Deborah A. Strzelecki has been suspended for ten (10) working days without pay for violation of Department Rules and Regulations under Personnel Order 2012-133 dated October 23, 2012.

d) The Director presented a communication from the Police Department regarding the Uniform Crime Reporting Statistics: January 1, 2012 – November 1, 2012. Assistant Chief Harpole reported that overall crime is down 7.2% with a slight increase in total violent crime of 2.7%. He said there has been a significant (40%) increase in Domestic Violence (DV)-related assaults that are driving the increase in the Aggravated Assault category. In addition, he said there has been a slight increase in the number of non-fatal shootings in 2012. MPD has a robust relationship with Sojourner Family Peace Center and DV advocates are assigned to most district stations. Domestic Violence advocates work hand-in-hand with police officers on a daily basis. Finally, he said MPD has a good relationship with the District Attorney's office who work to aggressively prosecute repeat offenders.

Commissioner O'Hear asked whether the DV initiative spearheaded by Captain Howard a few years ago has been expanded. Assistant Chief Harpole said all seven (7) district commanders were told to take a deep look at the issue of domestic violence in their districts to better target police services and DV advocates to the right people. This effort helped districts identify repeat offenders and victims to better offer services. Captain Howard was definitely a leader as a Lieutenant in District 4 when this program began and continues to be a leader now in District 7 as a Captain. All district commanders were instructed to take this matter seriously and MPD would like to see Captain Howard's model undertaken in all districts.

Commissioner O'Hear asked whether the increase in aggravated assaults reflects any changes to the coding process or procedure for aggravated assaults. Assistant Chief Harpole said the increase is a true increase and could not be attributed to data correction based upon coding errors. Rather, he said, the increase in aggravated assaults mirrors a national trend. MPD works hard to reverse the trend through a variety of means rather than simply mirroring it. Finally, Assistant Chief Harpole reported that homicides were down slightly in 2012 at 69 compared to 72 in 2011 at this time. However, there is a slight increase in non-fatal shootings with 370 so far in 2012 compared to 358 at this time in 2011.

6. PUBLIC COMMENT:

Jonathan Safran, a Milwaukee attorney representing the mother of the children of Derek Williams and other cases, said he appreciates further codifying when UOF reports should be filed, especially the recommendation to further delineate the types of actions where a report should be filed and removing discretion of the police officers and supervisors as to when reports should be filed. Attorney Safran said the prior SOP and rules would have required a UOF report to be filed in the Derek Williams case, as heard in Dr. Brandl's comments regarding the requirement to file a UOF report whenever a person is injured even if the injuries are not visible. While reactive in nature, these SOP changes should aid in better analysis of UOF data and allow the Department to more accurately monitor specific officers who may be involved in a greater than usual number of UOF incidents. Additionally, Attorney Safran said he commends and appreciates the specific "Duty to Intervene" SOP and wondered why it took so long to implement following the Frank Jude, Jr. incident in 2004. Attorney Safran said he would have thought this would have been introduced and addressed at that time. Regardless, he said this should go a long way to help eliminate issues related to a 'code of silence' long believed to be part of the Department. He also said he hoped the additional SOP will prompt police officers to do the right thing at all times, especially when they see another officer performing an action that would be against the rules or have criminal merit.

Chris Ahmuty, Executive Director of the American Civil Liberties Union (ACLU) of Wisconsin, spoke regarding the future of MPD diversity. Mr. Ahmuty said he is struck with the sheer volume of work assigned to the Fire and Police Commission (FPC) given the limited resources made available to it. Specifically, Mr. Ahmuty highlighted the time-consuming nature of recruiting, testing, and hiring new members of both the Milwaukee Fire and Police Departments. The ACLU supports the Finance and Personnel Committee amendment to add a Recruiter position in the Fire and Police Commission because it appears that the MPD may be moving backwards in terms of diversity and hiring new officers who may understand the concerns of the majority of city residents. Mr. Ahmuty referenced remarks made by the Director to the Finance and Personnel Committee regarding the current three year eligible list and testing schedule that makes it difficult to increase diversity and avoid reverse discrimination claims. Mr. Ahmuty recommends the FPC investigate changes to its recruitment, eligible list, and testing procedures to avoid unlawful discrimination. Finally, Mr. Ahmuty said he made these recommendations so the FPC can assure city residents that officers and commanders have experienced Milwaukee (or similar cities) firsthand, including taking into account the race or ethnicity of applicants to the fullest extent allowed by the law.

7. ADJOURNMENT:

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

The meeting concluded at 6:32 P.M.

Respectfully submitted,



Michael G. Tobin
Executive Director

MGT:kj