

September 5, 2013

A Regular Meeting of the Board of Fire and Police Commissioners was held on the above date, commencing at 5:34 P.M.

PRESENT: Commissioners: Sarah W. Morgan, Chair
Kathryn A. Hein
Paol X. Lor
Michael M. O'Hear
Ann Wilson
Marisabel Cabrera

ALSO PRESENT: Mark Rohlfing, Chief, Milwaukee Fire Department and
Edward A. Flynn, Chief, Milwaukee Police Department

The Director presented for adoption minutes of the Regular Meeting of July 25, 2013. Commissioner O'Hear moved approval of the minutes as presented, seconded by Commissioner Hein. The motion carried unanimously.

1. UNFINISHED BUSINESS:

a) The Director presented correspondence dated August 27, 2013, from staff, regarding Police Officer August Farkas wherein he requests an extension to his six-month temporary residency exemption which will expire on September 19, 2013. Commissioner O'Hear moved to approve the temporary residency exemption extension for six (6) months, seconded by Commissioner Hein. The motion carried unanimously.

2. NEW BUSINESS:

a) The Director presented correspondence dated August 2, 2013, from staff, regarding Detective Erik Villarreal wherein he requests a temporary residency exemption to reside in Franklin. Commissioner O'Hear moved to approve the temporary residency exemption for one (1) year, seconded by Commissioner Hein. The motion carried unanimously.

b) The Director presented correspondence dated August 20, 2013, from staff, regarding Police Officer Ryan DeWitt wherein he requests a temporary residency exemption to reside in St. Francis. Commissioner Wilson moved to approve the temporary residency exemption for six (6) months, seconded by Commissioner O'Hear. The motion carried unanimously.

c) The Director presented correspondence dated August 21, 2013, from staff, regarding Firefighter Steven Fuchs wherein he requests a temporary residency exemption to reside in Caledonia. Commissioner Hein moved to approve the temporary residency exemption for six (6) months, seconded by Commissioner O'Hear. The motion carried unanimously.

d) The Director reported that the Chair needs to appoint members to the Testing and Recruiting Committee. Commissioner Morgan reappointed Commissioner Hein as the chair and Commissioners Wilson and Cabrera as members of the committee.

e) The Director presented the Analysis of 2012 Milwaukee Police Department Vehicle Pursuits for approval. Joe Lawler, Research and Policy Analyst with the Fire and Police Commission (FPC) presented a Power Point summary highlighting the analysis. Mr. Lawler stated that in 2012 there were 63 vehicle pursuits, which represent the fewest pursuits in the past eleven years. Between 2002 and 2012, there has been a 77% decrease in vehicle pursuits. The most significant drop was between 2009 and 2010 after a change to

Milwaukee Police Department's Standard Operating Procedure for Vehicle Pursuits. Most vehicle pursuits occurred in January, while September had the fewest. Majority of the pursuits occurred during the evening hours. The greatest percentage of pursuits occurred in Milwaukee Police Districts 5 and 7. Aldermanic District 6 had the majority of pursuits, while 8 and 13 had no pursuits. Speeds ranged between 35 to 50 miles per hour. The length of time for a pursuit ranged from less than 60 seconds to 23 minutes. Twenty-four pursuits involved an accident. Of the sixty-three pursuits, one police officer sustained an injury. One pursuit resulted in a third-party bystander sustaining minor injuries. Commissioner Morgan requested future reports to reflect the third-party injuries. As the number of pursuits decreased, so have the number of pursuits that involved an accident decreased. Of the sixty suspects, one was female. Fifty-one suspects were black, four were white and four were Hispanic. The suspects ranged in age from 15 to 54 years old. Sixteen of the suspects were injured during the pursuits. Twelve suspects fled because of a felony, one because of a traffic violation, one for an open warrant, seventeen for an ordinance/misdemeanor violation, seventeen for other reasons and five for unknown reasons. Suspects were apprehended in forty-one of the pursuits. The report reflecting this information will be posted to the FPC website.

The Director commented that between 2009 and 2010 vehicle pursuits have been decreased about fifty percent, which has reduced the amount of police officers and citizens injured, as well as property damage. The number of complaints regarding pursuits has decreased as well.

Chief Flynn commented that they narrowed their policy after two fatal accidents occurred about three years ago because of pursuits. They surveyed what other departments around the country were doing as to vehicle pursuits and amended their Standard Operating Procedure to reflect their findings. It was determined that vehicle pursuits should be a rarely used police tool and should be reserved for when a police officer has knowledge that the suspect has been involved in a violent crime.

Commissioner O'Hear moved to approve the analysis, seconded by Commissioner Lor. The motion carried unanimously.

3. EXAMINATIONS:

a) The Director presented for approval the Fire Cadet Examination Announcement Bulletin, introduced by Lindsey O'Connor, FPC Human Resources Representative. Ms. O'Connor informed the Commission of the job description and parameters to be accepted into the program. The Director asked Ms. O'Connor to have a full-fledged recruitment announcement at the next meeting. She stated that there is an upcoming recruitment event at Harley Davidson on Saturday, September 28, 2013 and that our Recruiter, La'Neka Horton and Captain Joshua Parish of the Milwaukee Fire Department will be there. Chief Rohlfing stated that those interested can go to their school counselors for information on the program. Commissioner Wilson asked Ms. O'Connor for some informational documentation that could be handed out to the public regarding the program. Ms. O'Connor will make the documentation available. Commissioner O'Hear moved to approve the bulletin, seconded by Commissioner Hein. The motion carried unanimously.

b) The Director presented for approval the Police Aide Examination Announcement Bulletin, introduced by Toni Vanderboom, FPC Human Resources Representative. Ms. Vanderboom informed the Commission that the program is similar to the Fire Cadet position and what the job description and parameters are to be accepted into the program. She stated that the job application can be obtained online from the FPC website, in our office and in the schools. Commissioner O'Hear moved to approve the bulletin, seconded by Commissioner Hein. The motion carried unanimously.

4. FIRE DEPARTMENT:

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

TO FIRE CADET, from eligible list established September 6, 2012, contingent upon successful completion of background, psychological, medical, and drug screening, effective September 16, 2013:

#5 – STEVEN BUDNOWSKI.

TO FIRE CADET, from eligible list established May 2, 2013, contingent upon successful completion of background, psychological, medical, and drug screening, effective September 16, 2013:

#1 – KENDRIA DONALDSON; #2 – JESSICA OLSON; #3 – GRANT REZASH; #5 – CARLOS CORREA-VOLKMAN; #6 – JOSHUA GRAMS; #7 – PAIGE CARLONI; #8 – DENNIS WREN; #10 – RYAN BALASH; #12 – CAPRICE MITCHELL; #13 – TYLER PHILLIPS; #14 – ZACHARY TALATZKO; #17 – LINDSAY HALMAR; #18 – QUINTIN L. EUBANKS; #20 – ZACHARY GINSTER; #21 – DARYAN BURROUGHS; #23 – JACOB BUBOLZ; #25 – DIONTRA WOODS; #26 – NICHOLAS KAISER; #27 – BRANDON DZIBINSKI; #29 – MASON ANTHONY; #30 – CALEB LUCHT; #32 – MELANIE MADDEN; #33 – DONALD GAGLIONE, JR.; #34 – MATTHEW ENTERS; and #36 – THOMAS SCHULTZ.

TO FIRE CADET, on a contingent basis, from eligible list established May 2, 2013, contingent upon successful completion of background, psychological, medical, and drug screening and vacancies, effective September 16, 2013:

#37 – JOEL ALONTE; #38 – TITO FALCK; #40 – KODY KRASEMANN; #42 – ALEXANDER MCDADE; #45 – LEON MOORE; #47 – BRYANT ADAMS; #50 – RICARDO BLANCO; #51 – TINA WITKOWSKI; #53 – ALBERT SUNN III; #54 – RYAN KAMINSKI; #57 – PATRICK NEWELL; #58 – DONTE ANDERSON; #61 – SER VANG; #62 – DEIONDRE CUNNINGHAM; #64 – CRISTOBAL AVILA; and #66 – ISAIAH JACKS.

The Director asked Ms. O'Connor how many people applied for the Fire Cadet position. Ms. O'Connor stated that 799 people applied, with sixteen percent being rejected for being too old, not old enough, or because they did not appear for all of the facets of the examination. There were 120 applicants who participated in the physical ability exam and of those, 93 passed. Fifty of those candidates were processed to hire the 26 new Fire Cadets. Ms. Wilson asked Ms. O'Connor for the demographic breakdown of the candidates. Ms. O'Connor stated that 23% (6) are female, 31% are black, 8% are Hispanic, 4% are American Indian and 57% are white. She further stated that these numbers may change a little because there are five candidates who are Police Aides that have to decide if they are transferring to the Fire Department and there are a couple of medical hold issues to be resolved.

b) The Director presented correspondence dated August 27, 2013, from Chief Rohlifing, wherein he notifies the Board that Battalion Chief Spencer L. Vassel requests to be returned to his former rank of Fire Captain, effective September 15, 2013. Commissioner O'Hear stated that the reasoning for the demotion is interesting and troubling. He asked for Chief Rohlifing's comment on the demotion. Chief Rohlifing stated that Chief Vassel's reason to take the demotion is due to the pay inequity. Chief Vassel was making about \$60 more than a Fire Captain, and even less when the furloughs were figured in. With the economy and the concerns that the chief officers have with pay decompression, he determined that he did not have enough years left before retirement to wait for the pay to straighten out. He felt that the best thing for him to do in order to take care of his family was to step back into the rank of Fire Captain. Chief Rohlifing stated that he is continuing to work with Maria Monteagudo of the Department of Employee Relations and the Common Council to address this issue. Commissioner Hein moved to approve the request, seconded by Commissioner Lor. The motion carried unanimously.

5. POLICE DEPARTMENT:

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

TO CUSTODIAL WORKER II, from the Department of Employee Relations reinstatement/transfer list, contingent upon the successful completion of a medical examination and drug screen, effective September 16, 2013:

PATRICIA KUJAWA.

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

TO POLICE LIEUTENANT, on a waiver basis, contingent upon the successful completion of a drug screening, from eligible list established January 17, 2013, effective September 15, 2013:

#28 – DOUGLAS MARX.

TO LEAD POLICE TELECOMMUNICATOR, from Police Telecommunicator, effective September 15, 2013:

ANGELA M. BERGEMANN.

c) The Director presented correspondence dated August 23, 2013, from Chief Flynn, wherein he requests that the appointment of KIM A. LEWIS to the position of Office Assistant I be rescinded as this candidate declined to accept the position. Commissioner O'Hear moved to rescind the appointment, seconded by Commissioner Hein. The motion carried unanimously.

d) The Director presented correspondence dated August 19, 2013, from Chief Flynn, wherein he notifies the Board that the contingency appointment of #157 – Eric Sweeney from the Police Officer eligible list adopted on July 12, 2012, was utilized effective August 19, 2013.

e) The Director presented correspondence dated August 28, 2013, from Chief Flynn, wherein he notifies the Board that Probationary Police Officer Franklin I. McPherson has been terminated for violation of Department Core Value 1.00 – Competence; Guiding Principle 1.01.

f) The Director presented correspondence dated August 28, 2013, from Chief Flynn, wherein he notifies the Board that Police Officer Micolette Acevedo returned from an unpaid maternity leave of absence which commenced on April 11, 2013, effective June 9, 2013; Police Officer Joseph Goggins returned from an unpaid medical leave of absence which commenced on May 27, 2013, effective July 13, 2013; Police Officer James Humphreys returned from an unpaid medical leave of absence which commenced on June 4, 2013, effective July 18, 2013; Police Officer Benjean Lara returned from an unpaid military leave of absence which commenced on June 24, 2013, effective August 11, 2013; Police Officer Erik Rodriguez returned from an unpaid military leave of absence which commenced on June 23, 2013, effective July 23, 2013; Police Officer Alan Carsky was granted an unpaid medical leave of absence until September 2013, effective June 26, 2013; Police Officer Mark Kruschke was granted an unpaid medical leave of absence until October 1, 2013, effective August 8, 2013; Police Telecommunicator Angela Algee-Cotton was granted an unpaid medical leave of absence until November 1, 2013, effective June 25, 2013; Police District Office Assistant Pamela Miller was granted an unpaid medical leave of absence until October 8, 2013, effective August 16, 2013; and Police District Office Assistant Luann Scott was granted an unpaid medical leave of absence until September 2, 2013, effective March 7, 2013.

g) The Director presented correspondence dated August 20, 2013, from Chief Flynn, wherein he requests approval of the amendment to SOP 090 – Prisoners, which includes the creation of a new Temporary Holding Facility Administrator position. Chief Flynn stated that they have revised their policy on what to do with ill prisoners. In 2012 they made 34,325 arrests and had one death-in-custody, which cause is still undetermined. In the last five and one-half years of approximately 160,000 arrests, they have had four in-custody deaths. Many of the people they arrest, despite how they may physically appear, are not in the best of health, have not had the best of medical care, and frequently have undiagnosed medical conditions, or drug issues that may be exacerbated by the arrest. The officers have limited medical knowledge and the Milwaukee Police Department (MPD) is not set up for medical issues. MPD tries to get medical attention for those that appear to be ill. One person died of an undiagnosed heart condition. He was rejected by the hospital when transported there by the police officers. MPD cannot make the hospital admit someone they decline to admit. To avoid this in the future, MPD is looking into having a higher ranking authority come to the scene and intercede. It does not mean they will be successful in getting someone admitted to the hospital, but does mean they will have a record. Police officers will be required to take the individual to the Milwaukee County Jail instead of central lockup because the county jail does have medical facilities and medical personnel and are able to respond more quickly to a medical emergency. Commissioner Morgan asked Chief Flynn what type of background the Temporary Holding Facility Administrator should have. Assistant Chief Edith Hudson will be overseeing the position and the Administrator. She informed the Commission that the Administrator will be responsible for overseeing the function of the temporary holding facility, to make sure the laws are followed, ensure the personnel have proper training and the prisoners are cared for. The Administrator will be a sworn person temporarily. Deputy Inspector Ramon Galaviz is holding that position right now. Commissioner Morgan asked if there have been any issues with transferring the prisoners to the county jail and Chief Flynn informed her that the only issues have been with the paperwork that is not available at the time the prisoner is transported. Commissioner Wilson asked Chief Flynn about the expedition of prisoners getting medication. Chief Flynn informed her that they make every effort they can, but if the prisoner's family does not deliver the medication, or are not home, or the bottle is empty, or they did not refill the prescription, they are at a standstill. Director Tobin brought up the fact that it is a temporary holding facility, not a jail. The function of the temporary holding facility is to hold people temporarily until they can be released, go to court, or be turned over to the Milwaukee County Jail, which has medical personnel. He also stated that MPD now has a critical incident protocol to follow for an in-custody death. The matter is taken very seriously and there are outside agencies also involved in the investigation.

Dr. Sarah Patch responded to the SOP by stating that going on record is the right thing to do, but if the police officer does something wrong, the SOP does not cover that. If something avoidable does happen, the public would like to know that corrective measures are taken. Chief Flynn responded that there are competence policies to follow and if it is determined that there is malice, criminal authorities will prosecute. Commissioner O'Hear asked Chief Flynn if it is determined that the police officer willfully violated the SOP, could the police officer be terminated. Chief Flynn stated that it depends on the circumstances, but that it could be possible and they also could be criminally prosecuted.

Chris Ahmuty, Executive Director of the American Civil Liberties Union of Wisconsin (ACLU), responded by stating that the SOP references what is done once something occurs, but does not state what should be done to prevent the incident from occurring.

Chief Flynn informed the Commission that there was an error in the SOP regarding when the Director is notified. He stated that will be corrected to reflect that they call him just after the incident occurs, not the next day. The correction will be made before the SOP is implemented on September 6, 2013. Commissioner O'Hear approved the SOP, subject to the modification, seconded by Commissioner Wilson. The motion carried unanimously.

h) The Director presented a communication from Chief Flynn regarding curbing gun violence. Chief Flynn informed the Commission that Inspector Mary Hoerig and her staff worked very hard and rapidly to put the Power Point presentation together. Chief Flynn commented that their Code of Conduct states that the police department is described as community based, problem oriented, data driven agency. For the past five and one-half years, there have been significant declines in use of force, pursuits and citizen complaints. When there are spikes in crime, there are calls for dramatic and often unhelpful rapid changes to what the police are doing. The public determines that what has been done for a long period of time successfully must suddenly be changed and a new method be used. What works for the police department is analyzing the problem, implementing a strategy, responding to the problem and then analyzing the impact they have. It also has to be recognized that dealing with violent crime is not the only thing the police department does. Eighty percent of the time, they perform as a social agency for the poor. Through the Power Point presentation, Chief Flynn pointed out that the problems in the neighborhoods overlap each other. One of the many problems is violent crime. For the first six months of 2013 the crime numbers were down, except for robbery. There were 35 homicides so far this year, which would put them on track for being the lowest in over a quarter of a century, but that has now changed with 20 homicides in August. Over the past six years, MPD has made steady progress in reducing the crime numbers through their community based, problem oriented and data driven strategy. The reductions are the result of district level shooting reviews, hotspot and micropolicing of officers based on the Koper Principle, combined with proactive traffic and subject stops, along with being in the right place, at the right time. The officers are on foot and bicycle patrol in the neighborhoods, making their presence known and earning the trust of the citizens, which leads to information. Street crime briefings are being held by detectives informing the officers of individuals that are being sought for crimes. Probation and parole checks are performed with the agency to account for the offenders. The repeat offender initiative targets those who have had two or more gun related arrests in eighteen months. In Wisconsin it is a misdemeanor to carry a gun illegally, no matter how many times you are arrested. The bad guys have caught on to this and if they do not have felony convictions are not worried about the sanction. Using these arrests as an investigation tool, these individuals are asked what is going on, where did they get the gun, who are they shooting and why they are shooting. Within three months of a gun being purchased, it is used in a crime. In 2012 this has increased 51% from 2011. About five years ago, the gun was used within seven years of being purchased. Commissioner O'Hear inquired as to how many of the guns seized were reported stolen, to which Chief Flynn stated eight percent. A vast majority of the guns used in the crimes and recovered were purchased illegally. In 2006, the City received \$750,000 for community policing from state public funding. In 2013, the City received \$225,000. This funding has been removed from the 2014 budget. The Joint Finance Committee approved the allocation of \$3.5M for demolition of foreclosed and abandoned properties, but the Governor vetoed this funding. Vacant properties attract crime. They become crime targets and crime scenes. As these properties become vacant and the occupants leave, the neighborhood loses confidence and it goes into a downward spiral. Prior to Chief Flynn's arrival, the entire police budget was funded by the City's sales tax money. The firearms law that was passed last year has significant problems with it. The law does not have standards or sanctions, and a law that does not have standards or sanctions means the wrong people are going to have the guns, they are going to use them and nothing bad is going to happen to them. Career criminals can get legal permits to carry a gun in Wisconsin. The habitual offender statute states that if you commit three misdemeanors or one felony in a five-year period, you can receive a reduced penalty. There should be minimum mandatory sentencing for those who carry a gun illegally. Until the law is changed, they will carry a gun and they will more than likely use it. Commissioner Wilson asked Chief Flynn if it is the law, or who interprets the law that allows this type of behavior to continue. Chief Flynn stated he believes it is the sanctions that the career criminals face; much of it is the law itself. The law was written in a simpler time and it has not been revised. In last year's rush to get the law passed for the concealed carry, they overlooked the sanctions for violating the concealed carry law when the carrier does not have a permit. Everyone in Milwaukee is a Wisconsin resident and it is their legislature and they should be able to ask for data and anecdotes that state that loopholes in the laws need to be closed so our district attorneys have better tools to use to prosecute offenders.

6. ADJOURNMENT:

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

The meeting concluded at 7:15 P.M.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael G. Tobin". The signature is fluid and cursive, with a large initial "M" and "T".

Michael G. Tobin
Executive Director

MGT:cj