

May 20, 2010

A Regular Meeting of the Board of Fire and Police Commissioners was held on the above date, commencing at 5:30 P.M.

PRESENT: Commissioners: Richard C. Cox, Chair  
Carolina M. Stark  
Kathryn A. Hein  
Sarah W. Morgan

ABSENT: Commissioner: Paoi X. Lor (Excused)

ALSO PRESENT: Mark Rohlfing, Chief, Milwaukee Fire Department; and Edward Liebrecht, Assistant Chief, representing the Milwaukee Police Department.

The Director presented for adoption minutes of the Regular Meeting of May 6, 2010. He noted at this meeting, five promotions to Captain of Police were made. Commissioner Stark 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 proposed amendment to Fire and Police Commission Rule IV regarding Board procedure. This amendment would require both the Fire and Police Departments to submit any changes to standard operating procedures and standard operating guidelines to the Commission staff fifteen (15) days prior to its implementation. This will give staff a chance to review the change before it takes effect. Commissioner Stark moved approval, seconded by Commissioner Morgan. The motion carried unanimously.

b) The Director returned to the Board a proposed amendment to Fire and Police Commission Rule XV regarding the citizen complaint procedure. Currently one of four actions can be taken following the filing of a citizen complaint: it can be dismissed, returned to the department for rapid resolution, referred for a citizen-board trial, or referred for mediation. This rule change would give a fifth option to the Executive Director of policy training for incidents of minor misconduct. These incidents would not normally receive a discipline of a suspension or written reprimand. Commissioner Stark asked what constitutes minor misconduct. The Director stated the definition is in the FPC rules and standard operating guidelines for citizen complaints available on the website. The decision to give policy training will include discretion on the Director's part, as well as following the Police Department's discipline matrix, past practices, and reviewing the employee's record. Commissioner Stark stated that policy training would differ from rapid resolution complaint inquiry because issuing policy training determines a rule violation occurred. The Director reiterated his previous comments about the violation being so minor it would not necessitate discipline. Commissioner Stark voiced her concerns about the lack of Board review by adding policy training. She suggested adding language requiring Board approval for the Director to order policy training. The Chair explained that would be a procedural issue. The Director explained the intent of policy training is to streamline the process. Requiring Board approval would defeat the purpose because Board notification is not required for any other complaint disposition. The Chair recommended approval of the amendment but would like reports to the Board summarizing resolutions of citizen complaints. Commissioner Stark asked if there was a procedure in place for issuing policy training and stated it should require Board approval at a meeting because it is significantly different from other dispositions because they do not involve a rule violation. The Director stated he does not have a problem notifying the Board, but getting prior approval would defeat the purpose of the amendment. Due to the amount of discussion, the Chair laid the matter over to the next meeting.

c) The Director presented the Milwaukee County Circuit Court decision in the matter of Michael Pendergast vs. the Board of Fire and Police Commissioners filed May 6, 2010, stating the Court upheld the Board's decision. The Court found the Board upheld the law and had sufficient evidence to issue a thirteen (13) day suspension to Officer Pendergast.

d) The Director presented the Milwaukee County Circuit Court decision in the matter of Marcus Eastern vs. the Board of Fire and Police Commissioners filed May 7, 2010, stating the Court upheld the Board's decision. Mr. Eastern was terminated for posting a video on YouTube that reflected poorly on the Department. The Court found the Board was factually and legally correct in upholding Fire Chief Douglas Holton's termination of Mr. Eastern.

## 2. COMMITTEE REPORTS:

a) The Chair presented the report of the Committee on Testing and Recruiting. The Committee met May 10 and discussed adding the polygraph to the background process for Police Officer. The issue is still being researched. A draft of the Police Officer announcement bulletin was presented and will be discussed tonight. There was discussion about when eligible lists are presented to the Board, and it was decided that candidates will pass all testing components prior to the creation of an eligible list. The Firefighter recruit class will start July 26<sup>th</sup>. The EMT class is in session, and the National Registry exam is on May 25<sup>th</sup>. The Candidate Physical Ability Test is taking place at the West Allis Fire Department. The Police Aide recruit class of 30 recruits will begin July 26<sup>th</sup>. There are currently 52 candidates remaining in the process. The Police Officer recruit class will begin July 12<sup>th</sup> and will be a class of 50 recruits.

## 3. EXAMINATIONS:

a) The Director presented for approval an examination announcement bulletin for the position of Police Officer in the Police Department. He noted that the Department of Employee Relations (DER) has worked very hard on this announcement, and there have been many changes made from the last time the announcement was approved. Maria Monteagudo, Director of DER, stated this has been a long process to identify what changes need to be made to the application, announcement, testing process, and background investigation. Currently, there are approximately 6,000 applications that have been received since November 2007, when the last written test was administered. The new application and announcement bulletin will be used starting May 21<sup>st</sup>. Some of the changes to the announcement include: making the bulletin four pages long, explaining the process, including the branding campaign, revising the knowledge, skills, and abilities, emphasizing the benefits package, including language about decertification from the Law Enforcement Standards Board, and adding medical standard information including vision and hearing standards. There will be a five week application period ending June 25<sup>th</sup> instead of continuous recruitment. Applicants who previously applied will be required to submit a new application. The application is available online. The physical ability test (PAT) is another concern in the testing process. The PAT timeline was expanded to give candidates more opportunities to practice the PAT. Candidates will have six opportunities in the two weeks preceding the PAT to practice the test. This will hopefully increase the passing rate. People will now be more thoroughly briefed on what to expect during the background investigation process. This will include a video of the background briefing that will be played continually during the PAT and will also be available online. Minor changes were made to the matrix used in the background investigation. A lot of work has been put into researching the use of polygraphs, and a flow chart has been created on its use. Ms. Monteagudo stated she still has concerns from an employment perspective about the use of polygraphs for employment, and is waiting for a City Attorney opinion and more information before making a recommendation on its use. Another change to the process includes the timing of when an eligible list gets Board approval. Currently the Board approves the list only after the written test. To eliminate any confusion and promote transparency, Ms. Monteagudo recommends presenting the list to the Board after all testing components are completed, but before the background investigation. Commissioner Morgan asked if a person with color blindness may be qualified. Sally McAttee, Human Resources Manager, stated originally there was additional information about vision and hearing standards on the announcement and it was too much. Applicants can view detailed vision and hearing standards on the website. Commissioner Morgan asked about applicants who do not have internet access. Ms. Monteagudo stated paper applications are also available and will be accepted. Ms. McAttee added the information on the ways to apply is available on the announcement. Ms. Monteagudo stated the 6,000 applicants who previously applied will be notified by mail that they need to submit a new

application and will be encouraged to apply online. An open house will be considered, and a formal recruitment plan will be created and presented to the Board, similar to the firefighter recruitment plan. Commissioner Morgan asked about the diversity of the current applicants. Ms. Monteagudo replied approximately 40% minority and 25% female. The Director reiterated that previously submitted applications will not be valid for this test. Ms. McAttee expects only half of the applicants who previously applied to reapply. Commissioner Morgan asked if there was an upper age limit for application and information about the PAT. Ms. Monteagudo responded there is no upper age limit; the applicant just needs to be able to complete the testing process. The Candidate Preparation Guide is available online, as well as a video of the actual PAT. Ms. McAttee stated as a result of a court case, the consulting firm EB Jacobs was hired to develop the PAT based on the police officer job content. In 2007, a 1 ½ mile run was also added in the testing process, based on input from the department. Commissioner Morgan asked about the adverse impact of the PAT on females. Ms. McAttee stated an empirical data study was not conducted on the PAT. Commissioner Stark asked when the application period will end. Ms. Monteagudo clarified the period will end June 25<sup>th</sup>. The Director asked if written test dates should be added to the announcement. Ms. Monteagudo replied that because nothing has been finalized she does not want to include an exact date. The Chair mentioned that just stating July gave latitude to change dates within the month. Commissioner Stark asked when the recruitment plan would be put into effect. Ms. Monteagudo stated DER and MPD has been recruiting all along since the last written test administration, but a formalized plan will be presented to the Board. She also stated resources need to be allocated to the recruitment effort for DER, MPD, and FPC staff to get out and intensify recruiting. Commissioner Morgan moved approval of the bulletin with the suggested changes, seconded by Commissioner Hein. The motion carried unanimously.

b) The Director presented a letter dated May 11, 2010, from Chief Mark Rohlfing, wherein he notifies the Board that #52 – Tyron J. Hooks requests to have his name removed from the Fire Lieutenant Eligible List. Commissioner Hein moved approval of the request, seconded by Commissioner Morgan. The motion carried unanimously.

#### 4. FIRE DEPARTMENT:

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

TO FIRE LIEUTENANT, on a waiver basis, using the Fire Lieutenant, Paramedic, special promotion process, effective May 30, 2010:

#8 – ROBERT J. BRESSETTE.

b) The Director presented a letter dated May 11, 2010, from Chief Rohlfing, wherein he notifies the Board that Firefighter Michael A. Jasso returned from an unpaid military leave of absence, effective May 14, 2010, which was granted on February 6, 2009.

#### 5. POLICE DEPARTMENT:

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

TO POLICE DISTRICT OFFICE ASSISTANT, from Office Assistant I, effective May 30, 2010:

MICHELE K. KLINGBEIL.

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

TO OFFICE ASSISTANT I, from a Department of Employee Relations eligible list, contingent upon a medical examination and drug screening, effective June 1, 2010:

JEWERAL HARRIS; LUANN C. SCOTT; LINDA SHIRLEY; XENG-JOHN XIONG; and TARA YOUNG.

TO POLICE TELECOMMUNICATOR (SEASONAL), from the Police Telecommunicator (Regular) eligible list established May 7, 2009, contingent upon successful completion of a background investigation, medical examination, psychological test, and drug screening, effective June 1, 2010:

#54 – KATHLEEN KLIPSTEIN.

c) The Director presented a letter dated May 7, 2010, from Chief Flynn, wherein he notifies the Board that Diane Marek has been granted a one year extension to her leave of absence for the purpose of continuing to assume an exempt position of Special Assistant to the Comptroller. The leave shall expire June 7, 2011, and may be renewed upon request.

d) The Director presented correspondence dated May 11, 2010, from Chief Flynn, wherein he discusses the overtime status for the first quarter of 2010. As of the end of the first quarter, the department was \$900,000 under the total department allocation. The Department anticipates that with the number of vacancies in 2010, the total overtime allotment will be used. Currently they are right on the mark in overtime usage.

6. PUBLIC COMMENT:

Michael Crivello, President of the Milwaukee Police Association (MPA), read a prepared written statement regarding the issue of the promotion opportunities for Detectives. He stressed his concerns about the rank of Detective becoming a dead-end rank and mentioned several high-ranking Department members who rose through the path of Detective. He reiterated previous comments about the importance of Detectives and their duties, which cannot be conducted appropriately by a police officer. He concluded the Department is unwilling to communicate with the MPA regarding these issues.

7. ADJOURNMENT:

Commissioner Stark moved to adjourn the meeting, seconded by Commissioner Morgan. The motion carried unanimously.

The meeting concluded at 6:24 P.M.

Respectfully submitted,



Michael G. Tobin  
Executive Director

MGT:mk