

April 5, 2012

A Regular Meeting of the Board of Fire and Police Commissioners was held on the above date, commencing at 5:46 P.M.

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

ABSENT: Commissioner: Kathryn A. Hein (Excused)

ALSO PRESENT: Paul Conway, Assistant Chief, representing the Milwaukee Fire Department; and John Hagen, Assistant Chief, representing the Milwaukee Police Department.

The Chair reconvened the Board in Regular Session, having previously met in Executive Session from 5:15 p.m. to 5:35 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 Inspector of Police to Inspector of Police.

The Director presented for adoption minutes of the Regular Meetings of October 12, October 20, November 3, December 1, and December 15, 2011 and January 5, January 6, January 19, February 2, and March 15, 2012. Commissioner Stark moved approval of all of the minutes as presented, seconded by Commissioner Morgan. The motion to approve all of the minutes carried unanimously.

1. UNFINISHED BUSINESS:

a) The following promotion, as presented by Assistant Chief James Harpole, was approved by the Board:

TO INSPECTOR OF POLICE, from Deputy Inspector of Police, contingent upon successful completion of a drug screening, effective April 15, 2012:

CARIANNE YERKES.

b) The Director returned to the Board a request from the Fire Department to reclassify the position of Office Assistant III to Information Technology Specialist. In a report dated April 2, 2012, Maria Monteagudo, Director of Employee Relations (DER), recommends that in the Positions Ordinance, under Fire Department, Support Services Bureau Decision Unit, Administration Division, eliminate one position of Office Assistant III and in lieu thereof, add one position of Database Specialist in the Technical Services Division of the Fire Department's Support Services Bureau Decision Unit. Sarah Trotter, Human Resources Representative, was present and indicated the Fire Department originally requested the position be reclassified as an Information Technology Specialist. Commissioner O'Hear asked whether the Fire Department was in agreement with the DER's recommendation. Assistant Chief Conway said the Fire Department was. Commissioner Stark moved approval of the recommendation, seconded by Commissioner Lor. The motion carried unanimously.

2. NEW BUSINESS:

a) The Director presented a letter dated March 27, 2012, from staff, wherein Probationary Firefighter Robert (Chris) Wenger requests a temporary residency exemption to reside in his Oak Creek home until the closing date of May 30, 2012. Firefighter Wenger said he signed an offer to purchase a home in Milwaukee on

April 5, 2012. The Chair asked whether an extension until the first meeting in June would be satisfactory. Firefighter Wenger asked if he could have a little more time in case there are problems associated with either closing. The Chair asked if the first meeting in July would be satisfactory. Firefighter Wenger asked if he could have the full six month extension. Commissioner Stark moved to grant the residency extension until the July 12, 2012 meeting. Commissioner Morgan seconded the motion. The motion carried unanimously.

The Director presented a letter dated March 26, 2012, from staff, wherein Probationary Firefighter Jacob Lucht requests a temporary residency exemption to reside rent-free in Waukesha until his Watertown home is sold. Firefighter Lucht's wife is unemployed and his is the sole income. At this time, Firefighter Lucht is unable to afford rent or mortgage of a second residence. Commissioner Stark asked when he first entered the academy whether he had a plan for meeting the residency requirement. Firefighter Lucht said he planned to get a second job to be sure he had sufficient income to afford an apartment in Milwaukee. Commissioner Stark asked if he had explored renting the home. Firefighter Lucht said renting the home would not cover the mortgage. Commissioner O'Hear spoke only for himself and said that he would grant six month residency exemptions as a matter of course, but if an additional extension is requested he would then require individuals to provide compelling evidence that every possible effort had been made to achieve residency within the original six month extension period. Commissioner O'Hear moved to grant a six month residency extension, seconded by Commissioner Morgan. The motion carried 3-2, with the Chair and Commissioner Stark voting to deny the extension.

The Director presented a letter dated March 15, 2012, from staff, wherein Probationary Firefighter Christopher Weller requests a temporary residency exemption to reside in his Waukesha home until his home is sold. Firefighter Weller cannot afford mortgage and rent on a second residence. In addition, he is optimistic that within the six month residency extension period he would be able to sell or rent his home and move into the City. Commissioner Stark asked what his plan was for meeting the residency requirement when he was hired by the Fire Department. Firefighter Weller indicated he placed the home on the market as soon as he entered the academy and is open to renting the home. Commissioner O'Hear moved to grant a six month residency extension, seconded by Commissioner Morgan. The motion carried 3-2, with the Chair and Commissioner Stark voting to deny the extension.

The Director presented a letter dated March 30, 2012, from staff, wherein Probationary Firefighter Timothy Wilms requests a temporary residency exemption to reside in his Wauwatosa home until his home is sold. Firefighter Wilms indicated the home was placed on the market prior to his entering the academy and believed it would sell in time to meet the six month residency requirement. He is receiving ample foot traffic, but has been unable to sell the home. To date, an alternate plan had been to move in with family to achieve residency. Commissioner Stark asked whether he had given any thought to renting his home. Firefighter Wilms indicated that was a last resort option given that it would be hard to find someone to rent the home for the amount needed to meet the mortgage payment. Commissioner Lor asked whether he had considered a rent-to-own scenario. Firefighter Wilms said he would be open to all options mentioned in order to meet residency within the six month residency extension period. Commissioner O'Hear moved to grant a six month residency extension, seconded by Commissioner Morgan. The motion carried 3-2, with the Chair and Commissioner Stark voting to deny the extension.

The Director presented a letter dated March 26, 2012, from staff, wherein Probationary Firefighter Andrew Goeden requests a temporary residency exemption to reside in his West Bend home until his home is sold. Firefighter Goeden indicated he entered the academy as a late-start and did not place his home on the market until December. In addition, his wife was unable to work due to pregnancy complications. Firefighter Goeden is unable to afford rent or a mortgage on a second residence until his present residence is sold. Previously, according to Firefighter Goeden, renting was not a possibility due to life issues, but he is able to consider it now. In addition, he would consider renting his West Bend home. Commissioner Stark asked what plan Firefighter Goeden had to achieve residency upon entering the academy. Firefighter Goeden indicated his original plan was to wait three months and then, if the house did not sell, look into renting. His wife's

medical situation, however, changed their financial situation and this had not been a possibility. Commissioner O’Hear moved to grant a six month residency extension. Commissioner Morgan seconded the motion. The motion carried unanimously.

b) The Director presented a report titled “Types of Force Used by the Milwaukee Police Department in 2010: The Role of Officer, Subject, and Other Situational Characteristics”. The analysis was conducted by Dr. Steven Brandl of UW-Milwaukee, who was present and gave a presentation regarding his report. According to Dr. Brandl, this report addresses the question: How do situations where OC, a Taser, or bodily force was used differ in terms of the characteristics of officers who used force, the characteristics of subjects upon whom force was used, and the characteristics of the incidents in which force was used. Dr. Brandl said the findings were reassuring because approximately 70% of all use of force incidents involved one subject and one officer, approximately 22% of incidents involved two officers and one subject, and the most commonly used types of force were bodily force, taser, and OC. With regard to officer characteristics, female officers were least likely to use force, but when female officers used force, it was most likely with a Taser and least likely via bodily force; officers who used a Taser were more likely to have more years of experience compared to officers who used OC; officers who used bodily force were more likely to be taller and weigh more than officers who used a Taser or OC; and there were no differences across types of force used by officer race or age. With regard to subject characteristics, a Taser was more likely to be used on taller and heavier subjects compared to bodily force; a Taser was more likely to be used on subjects who were armed compared to bodily force or OC; OC was more likely to be used on subjects who were charged with resisting/obstructing only compared to bodily force or a Taser; and no differences across types of force used by subject race, subject sex, subject age, whether subject was under the influence, or whether subject attacked the officer. This is an important finding because the facts bear out that subject race, sex, and age do not matter in a use of force incident. Finally, with regard to situational characteristics, OC was less likely to be used in a foot pursuit situation, compared to bodily force or a Taser and no differences across types of force used by location of the incident, lighting at time of incident, or other activities that led to the incident. Commissioner O’Hear asked whether or not data is being collected regarding the extent and nature of injuries suffered by subjects as a result of use of force. Dr. Brandl responded the nature of injuries was defined in a limited fashion and was not useful from an analytical standpoint. He also indicated it would be useful to have more details regarding injuries and this was a recommendation made in the 2010 report. Commissioner Morgan moved to approve and receive the report. Commissioner Stark seconded the motion. The motion carried unanimously.

c) The Director presented the 2011 Report on Milwaukee Police Department Firearms Discharges (<http://city.milwaukee.gov/fpc>). The analysis was conducted by the Director and he thanked Research Assistant Joseph Lawler, UWM Intern Christine Tousignant, and Office Assistant I Kristine Jaeger for their contributions to the report. The Director indicated one of the main purposes of this report was to increase the public’s confidence in the Milwaukee Police Department (MPD) by being as open and transparent with as much information as we can. This report should help the public understand what an officer encounters on the street with use of force and will help the MPD develop firearms training based upon scenarios. According to the Director, the number of incidents versus the number of calls makes MPD firearm discharge incidents statistically rare events. Of the 15 use of force incidents, six people were injured, and two people were injured fatally. The majority of these incidents were concentrated in Districts 3, 5, and 7. Incidents were categorized as intentional discharge, unintentional discharge, and intentional discharge – animal. The Director presented conclusions with regard to intentional discharge; i.e., MPD should continue training regimens related to tactical skills in a use of force incident with particular emphasis on the officer’s perception of a threat. In addition, MPD has been very cooperative in working with the Fire and Police Commission (FPC). MPD and FPC should continue to work together on the process used to review any critical incident and officer-involved shooting. Continued effort should be made to continue reviewing the committee concept called for in the SOP and there is room for improvement on getting out the use of force

final recommendations from the review process. With regard to unintentional discharges, the Director indicated there were seven total incidents with five on-duty and two off-duty. Both off-duty incidents indicated officers were not properly utilizing a holster for their firearm so MPD should review the SOP covering off-duty weapon holsters. With regard to on-duty incidents, all incidents either involved transfer of the firearm from the strong hand to the weak hand while trying to grasp an object or subject with the strong hand or grasping an object or subject with the weak hand while having the trigger finger within the trigger guard.

MPD should notify officers of these particular scenarios and train appropriately to limit an unintentional discharge of a firearm in situations such as these. Finally, with regard to intentional discharge – animal, there is room for the department to examine its training with regard to what officers should do when they encounter an animal and look at alternative methods for containing the animal rather than using deadly force. In addition, MPD should review records of officers involved in two or more incidents of intentional discharge with an animal target to determine if additional individualized training may be useful. The Chair asked whether an officer's assignment had any bearing on animal encounters and intentional discharge. The Director indicated only about ten percent of discharges were done by members of the Tactical Enforcement Unit, so there is no correlation between officer assignment and animal encounter and intentional discharge. Finally, the Director referenced the final portion of the report which are summaries of all 15 incidents. The Director thanked Assistant Chiefs Hagen and Harpole and their staffs for their assistance in publishing this report. Commissioner O'Hear thanked the Commission staff who worked on the report. Commissioner Morgan moved to receive the report. Commissioner O'Hear seconded the motion. The motion was carried unanimously.

3. FIRE DEPARTMENT:

a) The Director presented correspondence dated March 29, 2012, from Chief Rohlfing, wherein he nominates Fire Captain Erich J. Roden to the exempt position of Battalion Chief, Fire, to be effective April 29, 2012. Pursuant to Rules of the Board, final action on this nomination was laid over to permit the nominee to be interviewed.

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 April 15, 2012:

#10 – JOHN J. SCHWENGEL.

TO FIRE LIEUTENANT, on a waiver basis, using the Fire Lieutenant, Paramedic, special promotion process, effective April 15, 2012:

JOHN B. KIELPINSKI.

TO PERSONNEL PAYROLL ASSISTANT II, from Personnel Payroll Assistant I, effective April 17, 2011:

CASEY J. KLOSS.

b) The Director presented correspondence dated March 23, 2012, from Chief Rohlfing, wherein he notifies the Board that Firefighter Marvin L. Coleman II was suspended for 60 days with 10 days held in abeyance for violation of Department Rules.

c) The Director presented correspondence dated March 19, 2012, from Chief Rohlfing, wherein he notifies the Board of brown-outs for Engines 27, 35, and 37 from March 25 through April 20, 2012.

4. POLICE DEPARTMENT:

a) The Director presented correspondence dated March 19, 2012, from Chief Flynn, wherein he presents a request from Police Dispatcher Keena Woods-Smith for voluntary demotion to her former position of Police

Telecommunicator, to be effective April 15, 2012. Commissioner Morgan moved approval of the request, seconded by Commissioner O'Hear. The motion carried unanimously.

The Director presented correspondence dated March 19, 2012, from Chief Flynn, wherein he presents a request from Police Dispatcher Charles T. Pace for voluntary demotion to his former position of Police Telecommunicator, to be effective April 15, 2012. Commissioner O'Hear moved approval of the request seconded by Commissioner Morgan. The motion carried unanimously.

b) The Director presented correspondence dated March 30, 2012, from Chief Flynn, wherein he notifies the Board that Susan M. Bodden-Eichsteadt has been granted a one year extension to her leave of absence for the purpose of filling the exempt position of Investigator/Auditor for the Fire and Police Commission. The leave shall expire April 18, 2013, and may be renewed upon request.

c) The Director presented correspondence dated March 28, 2012, from Chief Flynn, wherein he notifies the Board that Office Assistant IV Linda Pendzik returned from an unpaid medical leave of absence granted October 22, 2011, effective February 19, 2012; Detective Justine Schmidt was granted an unpaid medical leave of absence which commenced on April 16, 2012, and concluding December 10, 2012; Detective Reginald Thompson was granted an extension to an unpaid medical leave of absence which commenced on November 13, 2011, and concluding on September 11, 2012; Sergeant Lisa Ordonez was granted an unpaid medical leave of absence which commenced on February 25, 2012, and concluding on August 21, 2012; and Office Assistant IV Roxann Fisher was granted an extension to an unpaid medical leave of absence, which commenced on December 1, 2011, and concluding on July 2, 2012.

d) Assistant Chief Hagen gave an oral presentation to the Board regarding the Updated Organizational Chart of the Milwaukee Police Department. Assistant Chief Hagen stated the four bureaus have now been consolidated into three bureaus: Administration, Neighborhood Policing, and Criminal Investigation. Forensic Investigators (FIs) have now been assigned to the Criminal Investigation Bureau in the three geographic areas responsible for the investigation of crimes throughout the city. This move was made because the FIs perform an operation rather than provide support. These FIs will work with detectives and district personnel assigned to these areas. All lab work will remain in the Administration Bureau. The Central Lock Up is a support function and will be moved into the Administration Bureau under the Integrated Justice Services Division. Additionally, the Dignitary Protection Unit, formerly part of the Professional Performance Division, will move to the Intelligence Fusion Division because the Intelligence Fusion Division interacts with all federal partners. Finally, the Professional Standards Bureau and Administration Bureau were combined under the Administration Bureau because both have a support function with regard to human resources and training for the department. Assistant Chief Hagen also said each Bureau will have an Assistant Chief and the deputy commander will be an Inspector of Police. Commissioner Stark moved approval of the organizational chart. Commissioner Morgan seconded the motion. The motion carried unanimously.

5. PUBLIC COMMENT:

Chris Ahmuty, Executive Director, American Civil Liberties Union (ACLU) spoke regarding two concerns the ACLU has. First, Mr. Ahmuty requested certain information to show how MPD identifies bias in police operations. Specifically, he requested that the traffic stop data MPD continues to collect go beyond stop data to also include data regarding searches. Mr. Ahmuty recommended reporting on how many stops are based

upon reasonable suspicion, probable cause, or consent. In addition, including officer characteristics (race, gender, length of service) would help inform MPD search-related training and supervision. Finally, Mr. Ahmuty requested a methodology section be part of a report of this data. Second, Mr. Ahmuty asked for transparency in the investigation of the allegations related to strip searches in District 5. He requested that the investigation look beyond the officers to look at systems the department uses to determine whether or not these systems may have had an impact and make a situation such as this more likely to occur. According to Mr. Ahmuty, the ACLU supports the measure brought before the Common Council by Alderpersons Coggs and Hines calling for transparency in this investigation.

The Chair thanked Assistant Chief Hagen and Assistant Chief Conway for representing their departments during one of our longer meetings.

6. ADJOURNMENT:

The Chair announced that, following an appropriate motion, the Board will conduct a closed meeting pursuant to Section 19.85(1)(c) Wis. Stats. to consider employment, promotion, compensation or performance evaluation of any public employee over which the Board has jurisdiction or exercises responsibility, to wit: Battalion Chief, Fire candidate. The Board will not reconvene in open session upon conclusion of the closed meeting. Commissioner O'Hear moved to conduct such a closed meeting. Commissioner Morgan seconded the motion. The motion carried unanimously.

The meeting concluded at 6:56 P.M.

Respectfully submitted,



Michael G. Tobin
Executive Director

MGT:kj