

Board of Fire Commissioners Regular Meeting

Classroom at Fire Headquarters

72 New Haven Avenue, Milford, CT

Tuesday, September 18, 2012

Call to Order: Chairman Riso called the meeting to order at 1903 hours. A quorum was present.

1. Roll Call

Commissioners Thomas Riso, John Healy, Karen Craig, Kevin McGrath, Howard Stein, Richard Smith, and William A. Brennan. Also present were Chief Louis LaVecchia, Assistant Chief Robert Healey, Assistant Chief Al Zingaro, Union President Michael Dunn, and Union Vice President Todd Ricci; from the Milford City Attorney's Office, Attorney Debra Kelly; Milford Resident Paul Geer.

2. Public Statements limited to the function of the Board of Fire Commissioners:

None.

3. Swearing In:

None.

Commissioners Smith and Craig made and seconded a motion to reorder the agenda to discuss Item VIII, Grievance 12-004. Motion carried unanimously.

Grievance 12-004

Chairman Riso noted the information regarding the Grievance was contained in the Commissioners' packets. He added this hearing would be an open hearing. The Chairman turned the floor over to Union President Dunn.

Union President Dunn informed the Commissioners the meeting was being recorded.

Union President Dunn explained that Inspector Andrew Vargo retired this year. He said the pension calculations are the subject of this Grievance. He said the Union is not arguing the terminal leave portion of the calculations; the Union is arguing the vacation days and days worked calculations. He noted that in 1986, an arbitration award was implemented, regulating how day staff pensions are calculated. Inspector Vargo was a member of the Department for 28 years, the last 8 years being worked "upstairs" in administration and not on the floor. His hours for vacation time and days worked were calculated at 8 hours/day, not at 12 hours/day, as the Union feels it should be calculated, and as floor staff pensions are calculated. Union President Dunn stated this calculation is a violation of the 1986 award and Inspector Vargo is being penalized 4 hours/day on his pension.

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Commissioner Brennan commented that he is not being penalized 4 hours/day because Inspector Vargo worked the day shift during his 8 final years at the Department and so is losing only 4 hours/week. Union President Dunn clarified that the terminal leave calculation is correct at 8 hours/day, but the vacation time and days worked time was calculated improperly.

Commissioner Healy inquired what the calculations should have been according to the arbitration award. Union President Dunn said that in 1990, four positions were added into the Department: Training Captain, EMS Captain, Administrative Battalion Chief, and an Inspector. He noted that all four of these positions receive compensation for 12-hour days as Line Officers when they work 8-hour days. He reiterated that the 1986 agreement has been violated, hence the Grievance.

Commissioner Healy asked for a copy of the 1986 agreement. He then inquired if the Union had prepared calculations according to the regulations of the agreement. Union President Dunn said according to the Department, Inspector Vargo is entitled to \$23,441.78; according to the Union, Inspector Vargo is entitled to \$30,129.49. Commissioner Brennan commented there is no basis for Inspector Vargo to receive 12 hours instead of 8 hours. Union President Dunn said if Inspector Vargo had remained an active Firefighter, he would have received his full 12-hour pension calculation.

Commissioner Stein inquired if the terminal leave portion that had been awarded was being contested; Union President Dunn said it was not. Commissioner Stein asked if the Grievance was based on a breach of agreement or an equity award; he added that the procedure for calculations is well-defined and there is a blended calculation rate for each position in the Department. Union President Dunn agreed Commissioner Stein would be correct if all members of the Department were treated in the same way. Commissioner Stein summarized the Union's position as the Department deviated from the agreement for some members of the Department; the Department's position is policy and practice take place over the 1986 agreement.

Commissioner Healy inquired if Grievance 12-004 is the only action that has been started regarding pension calculations since the 1986 agreement; Union President Dunn said it is. Commissioner Brennan commented that no action has been brought most likely because the calculations were higher than they should have been.

Union President Dunn stated that people in five positions in the Department are being penalized due to this policy and procedure of pension calculations: the Superintendent of Apparatus, the Assistant Superintendent of Apparatus, and three Inspectors. These positions do not have the ability to work the line and therefore do not get the benefit of a 12-hour calculation. Commissioner Brennan stated those positions do not have the ability to pick up overtime; Union President Dunn said that is correct. Union President

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Dunn added that Inspector Vargo, per doctor's orders, can no longer work as a Firefighter.

Commissioner Stein inquired if the hiring done in 1990 represented a realignment of the Department. Union President Dunn said he could not answer that.

Commissioner Healy asked if the contract defines the duties of the members of the Department; Union President Dunn stated duties are stated in the rules and regulations.

Commissioner Healy asked for a description of Inspector Vargo's work hours; Union President Dunn said he worked 8 am to 4 pm, an 8-hour day. Commissioner Stein asked for Inspector Vargo's years of service; Union President Dunn said Inspector Vargo worked for the Department for 28 years.

Commissioner Stein inquired going by the 1986 arbitration agreement, how many years should Inspector Vargo have gotten at the 12-hour calculation; Union President Dunn said it should have been 20 years on the floor and 8 years "upstairs".

Commissioner Healy inquired as to who figures the pension calculations; Union President Dunn said it is Chief LaVecchia's responsibility, who calculated it as \$23,441.78. Commissioner Healy stated that the Union's calculation is \$30,219.49. Commissioner Stein said Chief LaVecchia applied the calculation as stated in the 1986 agreement, but the Union feels Inspector Vargo should be better compensated for his 8 years of service "upstairs". Union President Dunn provided the Commissioners with copies of the calculations and then stated that the numbers are not finalized until Inspector Vargo actually retires.

Commissioner Healy commented that the Department is in compliance with the 1986 agreement; Union President Dunn stated that the Union feels the Department violated the agreement.

Commissioner Healy inquired how the calculations were done for the positions implemented in 1990. Union President Dunn stated he did not have the paperwork for those positions, but he believes they have all been compensated at the 12-hour rate. Commissioner Healy said those retirees might have been unjustifiably enriched with higher pension rates. Union President Dunn said he could not agree with that statement without seeing the numbers.

Commissioner Stein inquired about language in the Grievance regarding the payment of attorney's fees; Union President Dunn said that language is contained in every grievance.

Commissioner Healy asked Chief LaVecchia if, other than Inspector Vargo, pension calculations were done pursuant to the 1986 agreement. The Chief said yes, and pursuant to past practice. Commissioner Healy asked how, after the binding arbitration award, the

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agreement changed. Chief LaVecchia stated the secretary Pat Hoppes had been doing the calculations in 1986 when the agreement was reached was following the same practice in figuring the calculations up to this year, when she retired. Commissioner Healy noted that it is the Chief's responsibility to ensure that the calculations are done correctly. Commissioner Healy said the arbitration award is what should be in force in figuring the calculations, not past practice. He added that past practice might have awarded some pensions that are higher than they should have been. Chief LaVecchia reiterated that all calculations have been done pursuant to the 1986 agreement.

Commissioner Stein asked if the Chief had a presentation to offer the Commissioners. Chief LaVecchia deferred to City Attorney Kelly.

City Attorney Kelly explained she had the opportunity to review the Grievance presented. She said the calculations done by Chief LaVecchia are in accordance with the 1986 agreement on terminal leave. She said that vacation time can only carry over for one year.

City Attorney Kelly said that the statement that all daytime staff are paid out contrary to the agreement is not accurate, but there are some exceptions. She said that three of the four 1990 positions (Inspector position not included) might still be considered as 12-hour positions.

City Attorney Kelly explained the calculations done by Chief LaVecchia: Inspector Vargo was calculated at 12 hours for 20 years and 8 hours for 8 years, with 8 hours for vacation time. She said this calculation seems to be correct and other retired Inspectors have been paid out according to this same calculation.

Commissioner Brennan inquired if the other 1990 positions had been paid out improperly; City Attorney Kelly said it appears, from her limited review of the paperwork, that they have been paid contrary to the agreement. Commissioner Healy said it is important for the Commission to find out how many retirees are being paid more than they should and being unjustifiably enriched.

Commissioner Stein inquired if on the exceptions, as Attorney Kelly stated, those members were paid on terminal leave at 12 hours or 8 hours; City Attorney Kelly stated the exceptions were paid at the 12-hour rate for both vacation and terminal leave time. Union President Dunn stated the agreement only addresses terminal leave time, not vacation time.

Commissioner Stein asked if it has been the Department's practice since 1986 to compensate day staff vacation pay at 8 hours. City Attorney Kelly said it appears that is the case. She added that the 12-hour compensated positions created in 1990 do not appear to include the Inspector positions.

Chairman Riso asked if any Inspector that has retired since the 1986 agreement has been paid pursuant to the agreement; City Attorney Kelly said yes.

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Commissioner McGrath stated it will be difficult for the Commission to approve or deny the Grievance if there are past practices that are being utilized in communion with the 1986 agreement. City Attorney Kelly stated it is the City's position that past practice has abided by the 1986 agreement.

Chief LaVecchia explained three of the four positions created in 1990 were compensated at the 12-hour rate, per agreement made by then-Chief Healey at the time the positions were created. He said this agreement is not in writing. Commissioner Healy said it not being in writing is the problem. Commissioner Healy inquired if Chief Healey had acquired approval from the Pension Board or any other entity to implement that deal; Chief LaVecchia said he had not.

Chairman Riso inquired if there are two classifications of "upstairs" workers; Chief LaVecchia said there are.

Commissioner McGrath suggested cleaning up the calculation language in the Union contract so as to have a clearer process for future pensions. City Attorney Kelly noted the Union contract is not up until 2013.

Commissioner Healy inquired if any Inspectors had retired since 1990. Chief LaVecchia stated some had, but they had been compensated at the 8-hour rate, per the 1986 agreement. Commissioner Craig again inquired if any Inspectors had received the 12-hour compensation rate. City Attorney Kelly said three positions had the 12-hour rate, but the Inspector position did not. Commissioner Healy inquired how many Inspectors had retired since 1990; Chief LaVecchia said three had retired.

Commissioner Healy commented if Inspector Vargo receives his pension according to the Union calculations, the three other retired Inspectors will most likely request a recalculation of their pensions as a result. Union President Dunn commented that Inspectors have the ability to work the floor from the Inspector's office, which is not an option Inspector Vargo had, due to doctor's orders.

Commissioner McGrath requested a short recess. The Chairman granted the request. The Commission recessed at 1951 hours. The Commission resumed open session at 1957 hours.

Commissioner Healy said tabling the Grievance to acquire more information would be advantageous, but noted that the Commission could not table the issue without agreement from the Union.

Commissioner Healy made a motion to request the City Attorney's Office to conduct an audit to review the pensions of retired members of the Department to determine if they had been properly calculated.

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Motion not seconded; motion not acted upon.

Union President Dunn explained the Grievance discussion had already been postponed two months and two extension letters had already been received by the Union. He said he would prefer a vote on the Grievance right away so he can bring this action to the State if needed.

Chief LaVecchia noted that pensions had not been incorrectly calculated or overpaid. Commissioner Brennan stated that cannot be backed up with documentation. The Chief said since 1990, all pension calculations had been done this way and terminal leave had been calculated consistently, but there is no paperwork stipulating to the hour calculations.

Commissioner McGrath inquired why the Commission was just hearing this Grievance at this meeting when it had been extended twice already. Chief LaVecchia stated he had been trying to negotiate this issue with the Union and had been in discussions with the City Attorney's Office to reach a settlement.

Union President Dunn stated the Union only discussed this issue with the City Attorney's Office once since the Grievance had been submitted. He added that on June 27th and July 3rd, he had received extension request letters from Chief LaVecchia. City Attorney Kelly stated she had been in contact with the Chief and she had requested extra time to review past retirements prior to attending the meeting. Commissioners Healy and McGrath stated the Commission was not informed of the Grievance or the extension requests.

Commissioner Healy asked City Attorney Kelly if the City regards the proposal calculated by Chief LaVecchia to be the correct one; City Attorney Kelly said that is the City's position.

Commissioners Healy and Brennan made and seconded a motion to deny Grievance 12-004.

Commissioners Riso, Healy, Brennan, Smith, and Craig voted in the affirmative.

Commissioner McGrath voted in the negative.

Commissioner Stein abstained from voting due to a conflict.

Motion carried.

Commissioners Healy and McGrath made and seconded a motion to request the City Attorney's Office, in cooperation with Chief LaVecchia, to conduct an audit of all prior Fire Department personnel since 1986 to verify pension calculations are correct.

Commissioner Stein commented that it has been Chief LaVecchia's testimony that the pension calculations have been done correctly and pursuant to the agreement since its inception. Commissioner Brennan said since Chief LaVecchia has not been the Chief since 1986, and there is an agreement in regards to the three 1990 positions that is not in writing, the Chief cannot verify his statement is correct.

Commissioners Healy, Brennan, McGrath, and Smith voted in the affirmative.

Commissioners Riso, Stein, and Craig voted in the negative.

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Motion carried.

4. Consideration of Minutes:

Regular Meeting - August 21, 2012

Commissioner Brennan said his comments under Apparatus needed correction. He said he was requesting the status of Rescue 3 and it had been his understanding the apparatus was going to be traded in.

Commissioner McGrath said his comments under New Business needed correction, saying that if the Department requests purchases or bonds over \$7,500, after presentation to the Board of Aldermen, the Commission could approve or deny the request.

Commissioner Stein said his comments under Comments and Concerns of the Commissioners needed correction. He said the wording of the FOI compliance should read: Commissioner Stein commented a recording device is on and recording during the entirety of the meeting. He added that all FOI regulations should be complied with as making a recording makes the audio of the meeting discoverable by the public.

Commissioners Brennan and Craig made and seconded a motion to accept the minutes of the August 21, 2012, regular meeting as corrected. Motion carried unanimously.

Commissioner Smith abstained from voting as he was not present at the last meeting.

5. Communications:

- a. Letter to Chief LaVecchia from Bridgeport Fire Chief Brian Rooney thanking the Milford Dinosaurs for their support with their canteen during the fire at Remington Arms on August 4.
- b. Thank-you card to the heroes of the Naugatuck Avenue Station from Milford Resident Evelyn, thanking them for pumping water out of her house.

6. Committee Reports

Apparatus

Assistant Chief Healey reported Engine 1 is in for maintenance and all other apparatus are in service.

Commissioner Brennan inquired why a new hose was being used; Chief LaVecchia stated the new Quint did not fit the old hose that was being used.

East Side Fire Station

Commissioner Healy reported the Committee would be having a meeting on the 19th. He said the station continues to make progress, but he and everyone involved is frustrated it

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is not yet complete. He added that he and Commissioner Brennan spent three hours with the architect and the contractor earlier that day discussing various issues.

7. Chief's Report

Chief LaVecchia reported five recruits are currently in the Academy.

The Chief said Battalion Chief Hayden retired, Captain Zak was promoted to Battalion Chief, and Lieutenant Thornberg was promoted to Captain.

Chief LaVecchia said, in reference to Commissioner McGrath's inquiry of the last meeting, that \$7,500 is the threshold for a Department item to go out to bid. He said in most cases, the Department is buying off the State bid list. He added that the budget process is set through the Finance Department and the Commission is excluded. When the Commission is presented the Department budget, said budget had already been presented to the City in the order of Mayor, Finance Department, and Board of Aldermen. He noted that very few items are purchased over the \$7,500 threshold that are not line items in the budget. The Chief added that if the Commission would like to be a part of the process, that would be fine but might slow the process down a bit.

Commissioner McGrath said he understands the process. He stated that from the Commission's standpoint, it is their responsibility to approve equipment prior to purchasing. He said he understands the budgetary aspect of the procedure, but it is the Commission's authority to support or not support new equipment or apparatus.

Chief LaVecchia said that apparatus are covered in the Vehicle Acquisition Plan.

Commissioner McGrath said he hasn't seen requests since he became a Commissioner, and looked through prior meetings' minutes and did not see any mention of the requests in them, either. The Chief said the acquisition of a new engine takes well over a year.

Commissioner McGrath said he never saw a Commission-approved equipment purchase and it's the Commission's responsibility to approve or deny the request. Chief

LaVecchia suggested having the Vehicle Acquisition Plan come to the Commission for approval in the future.

8. New Business

Breast Cancer Awareness Fundraiser

Chairman Riso reminded the Commission that the fundraiser had been approved by the Commission already. He said a letter had been submitted and was included in the Commissioners' packets. He inquired how wearing the shirts during shifts would affect the uniform of the Department. Chief LaVecchia said the uniform requirements would be suspended during the time the shirts would be worn. Commissioner Healy said the proposed timeline would be the 1st through the 31st of the month. Chief LaVecchia said he would like to see the presentation of the fundraiser organizers.

Commissioners Stein and Brennan made and seconded a motion to approve the Breast Cancer Awareness Month request, not to exceed 30 days, at Chief LaVecchia's discretion. Motion carried unanimously.

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9. Unfinished Business:

Public Safety Answering Point 911 Center Consolidation

Assistant Chief Healey reported not much has changed since last month's report. He said price quotes are still being obtained.

City Vehicles

Chairman Riso confirmed that all Commissioners had the conditions for the use of city vehicles in their packets.

Chief LaVecchia submitted to the Commissioners a revised policy regarding the use of the vehicles. He said his comments stand regarding the need for productivity and management of the Department. He opened the floor to questions.

Commissioner Healy read out loud #3 from the general rules to the Commissioners, which states that the Chief and two Assistant Chiefs may be called back to work for an emergency and/or other business. Commissioner Healy said he reviewed all the information, and based on what he has read along with the duties and responsibilities of each Department member currently assigned the use of a city vehicle, he believes Cars 5, 6, 7, 9, 10, 11, 12, and the school vehicle should not be used as transportation to and from work. He stated the contract requires there to be minimum manpower available at all times. He further stated he understands the need for the EMS and maintenance vehicles to be assigned for daily use.

Commissioner Healy commented that in the interest of economy, the cars he stated should not be assigned for daily use. He added that in previous discussions on this issue, Chief LaVecchia stated that there is not enough parking for those on duty to park their personal vehicles. Commissioner Healy said the new East Side Fire Station has ample parking to accommodate.

Commissioner Healy recommended that the use of city vehicles be limited to the Chief and two Assistant Chiefs, the Hazmat/Safety Captain, and Maintenance. He said he cannot see the justification of the use of the other vehicles.

Chief LaVecchia suggested entering executive session to discuss the impact a policy change would have on the Department. Commissioner Brennan said he believes all city vehicles should have GPS tracking installed.

Commissioner McGrath, referring to the presented revised policy, inquired if revisions were added since the January 8, 2007, original policy. Chief LaVecchia stated yes; the original policy was implemented in 2002, revised in 2007, and lastly in 2012.

Commissioners Smith and McGrath made and seconded a motion to enter executive session to address the policy change impact.

Union President Dunn objected to entering executive session as the discussion does not relate to a personnel matter, as is required by FOI laws. Chairman Riso stated entering

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executive session had been approved by City Attorney Kelly. Commissioner Stein noted that the current discussion does not fall under the purview of strategy and negotiation regarding a pending claim, and so does not fall under FOI compliance for executive session.

Commissioner Stein withdrew his motion.

Commissioner Healy made a motion to limit the 24/7 use of city vehicles to the Chief, two Assistant Chiefs, Hazmat/Safety Captain, and the Maintenance vehicle, in the interest of economy.

Commissioner Stein inquired as outlined, are any of the vehicles 5, 6, 7, 9, 11, and 12 under the collective bargaining agreement; Chief LaVecchia said yes. Commissioner Stein asked if the Union has any position on this issue. Union President Dunn had no comment.

Commissioner Healy noted there is nothing in the agreement that says members are allowed the use of city vehicles.

Commissioner Stein added it is possible if cars were removed from the collective bargaining agreement, a grievance could be filed. Commissioner Healy said he is aware of possible push-back, but this issue is under the purview of the Commission and there is no logical reason for the use of the vehicles. He said some of the vehicles are not being used solely for transportation to and from work. Commissioner Stein said if the vehicles are not being used in accordance with the rules and regulations, then the offenders will be dealt with accordingly.

Commissioner Brennan seconded the motion.

Chief LaVecchia informed the Commission that Bridgeport had been cited because their Safety Officer was not at a scene. He said this shows that relying on one person is not possible, especially during an emergency. He added that cars 9, 11, and 12 are assigned as an offset of standby pay and that other departments issue both standby pay and assign the use of vehicles. He noted that he believes in the current policy and he does not agree with changing it at this time.

Commissioner Brennan commented that other departments have assigned safety officers with their responding officers. He said he sees Milford's vehicles being used to go home for lunch. Chief LaVecchia said if the use of a vehicle ensures an officer will return when needed, that would ensure a low cost to the City.

Commissioner Healy suggested the use of an incident command system that allows call back as defined under the current rules and regulations. He added that if an officer needs to have the use of a vehicle in order to ensure their response during an emergency, it is ridiculous. He further added that the Chief initially told him about the parking issues. Chief LaVecchia stated the parking was an issue when Station 7 was being utilized for parking and it was taking officers too long to get to work from there. Commissioner Healy suggested an officer becomes on-duty when he/she gets into the assigned car. Chief LaVecchia said an incident command system is current being utilized and working well. Commissioner Brennan commented the Department is well-staffed.

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Chief LaVecchia asked if the Commissioners see the vehicles being used for personal matters to advise him of it.

Commissioners Healy, Brennan, Stein, McGrath, Smith, and Craig voted in favor of the motion.

Chairman Riso opposed the motion.

Motion carried.

Rules and Regulations, Revision and Update

No report.

10. Comments and Concerns of the Commissioners:

None.

11. Adjournment

Commissioners Smith and Healy made and seconded a motion to adjourn at 2057 hours.

Motion carried unanimously.

Recorded by C. Birney