

**Board of Fire Commissioners Regular Meeting
Commissioner's Conference Room
At Fire Headquarters
72 New Haven Avenue, Milford, CT
Tuesday, July 16, 2019**

1. **Call to Order:** Chairman McGrath called the meeting to order at 19:17 hours. A quorum was present.

Roll Call: In addition to the Chairman, Commissioners Smith, Stein, Riso, Brennan, Stanford and Weber were present. Also, present was Chief Douglas Edo and Assistant Chief Gary Baker.

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

None

3. **Consideration of Minutes:**

Regular Meeting – June 18, 2019.

Commissioners Smith and Stanford made and seconded a motion to accept the minutes of the June 18, 2019, Regular Meeting as presented. Motion carried unanimously.

4. **Communications:**

Commissioner Smith reported that the Department received the following communications:

i. Thank you note and check in the amount of \$25.00 from Jarry and Margaret Poppel.

Commissioners Smith and Riso made and seconded a motion to accept the above-referenced donation and deposit it into the "good and welfare" fund. Motion carried unanimously.

5. **Chairman's Report:**

Chairman McGrath indicated to the Commissioners that the August meeting scheduled for August 20th should be maintained for now. If it becomes unnecessary to hold the meeting, the Chairman will give the Commissioners notice of its cancelation.

6. **Committees Reports:**

a) Personnel Committee: Commissioner Stein had nothing to report.

b) Maintenance & Equipment Committee: Commissioner Brennan noted that the late model demonstration vehicles that were recently purchased by the department (and will be discussed by the Chief in his report) were a very good pickup and will save the City money.

7. Chief's Report:

Cars – Chief Edo noted that the department purchased 2 vehicles from Stevens Ford to be used by the Fire Inspectors. The department bought them at a very good price well within the budget that was set.

New Car 4 Command Vehicle - Chief Edo indicated that the new car 4 was out to bid and the bids were due in 30 days. \$75,000 was the budget amount for the acquisition. Chairman McGrath reminded Commissioners that this acquisition and budget was approved by the Commission about 7 months ago.

Recruits – Chief Edo reported that the department just filled 2 vacancies. The new recruits will start on August 12. They will receive 2 weeks in-house training and then will begin the State Fire Academy on August 26th.

Computer needs/Servers – The Chief reported that the department's computer equipment is aging and needs to be replaced. The department is working with the City's IT department through the budgeting process to begin replacing equipment. The department is looking to replace 2 servers as well as several stand-alone CPU units.

Chairman McGrath asked for a Motion to reorder the Agenda to move Agenda Item IX Unfinished Business a) Executive Session – Firefighter Raul Benavides-Espinal (Termination) forward and to thereafter enter into Executive Session.

Commissioners Riso and Smith made and seconded a motion to reorder the Agenda to move Agenda Item IX Unfinished Business a) Executive Session – Firefighter Raul Benavides-Espinal (Termination) forward and to thereafter enter into Executive Session. Motion carried unanimously.

9. Unfinished Business

a) Executive Session – Firefighter Raul Benavides-Espinal (Termination)

The Commission enters into Executive Session at 19:22 and the Chairman requests that Chief Edo, Asst. City Attorney Debra Kelly, City Human Resources Director Tania Barnes, Attorney Daniel Hunsberger and Firefighter Raul Benavides-Espinal to remain in attendance for the purpose of giving testimony. Attorney Daniel Hunsberger, legal counsel for Firefighter Raul Benavides-Espinal indicated to the Chairman that his client waived his right to have this matter heard in Executive Session and requested the matter be heard in public session. Chairman McGrath acknowledged Firefighter Raul Benavides-Espinal's right to waive a hearing in Executive Session and announced to the members of the public that left the room that the meeting would continue to be open to the public.

The public session continued at 19:25.

Asst. City Attorney Debra Kelly and Chief Edo provided testimony to the Commission recommending the termination of Firefighter Raul Benavides-Espinal due to abuse of sick leave noting that Firefighter Raul Benavides-Espinal became a City Firefighter in 2012. Since that time, it was alleged that he has abused department sick leave. It was noted that Firefighter Raul Benavides-Espinal used 60 sick days in his first few years with the department and thereafter on August 2, 2018, he stopped working altogether claiming he was sick. He was notified on at least 3 occasions by the City HR director that he needed to file an FMLA Application and his failure to do so would be considered an effective abandonment of his position with the Milford Fire Department. Firefighter Raul Benavides-Espinal failed to acknowledge the notices from the City HR office and his pay was terminated. City Human Resource Director Tania Barnes and Battalion Chief Anthony Fabrizi provided additional information or answered questions directed to them by Attorney Kelly or by members of the Commission pertaining to this matter.

Attorney Daniel Hunsberger and Firefighter Raul Benavides-Espinal provided testimony to the Commission that Firefighter Raul Benavides-Espinal suffers from non-job related PTSD that makes him unable to work as a Firefighter at this time. It was their position that past practice provides that the department maintain Firefighter Raul Benavides-Espinal on sick leave indefinitely allowing him more time to seek treatment. Attorney Hunsberger indicated that Firefighter Raul Benavides-Espinal PTSD was exacerbated by Department personnel who called the Police to check on Firefighter Raul Benavides-Espinal after he made statements to departmental personnel that he has thought about suicide and hurting himself. Diana Cartavarria, who identified herself to the Commission as the girlfriend/caretaker for Firefighter Raul Benavides-Espinal also addressed the Board in support of Firefighter Raul Benavides-Espinal. Attorney Hunsberger requested that the Board not terminate the employment of Firefighter Raul Benavides-Espinal as a member of the City of Milford Fire Department.

Following the presentation, Chairman McGrath requested a short recess at 20:07.

The Board came back into session at 20:29. All Commissioners were present.

8. **New Business:**

a) Grievance – Firefighter Raul Benavides-Espinal (Pay)

Commissioner Stein indicated to the Chairman and Chief Edo that the Commissioners did not receive a copy of the Grievance with their meeting packets. The Chief indicated that he would have copies made immediately.

Asst City Attorney Debra Kelly recommended to Commissioners that they deny the Grievance based on the fact that it was not filed timely pursuant to the CBA and further based upon the merits of testimony provided to the Commission pursuant to the recommendation for termination of Firefighter Raul Benavides-Espinal.

Attorney Hunsberger indicated that Grievance was timely filed pursuant to the CBA because it was a series of on-going continuous events. Further, he reiterated his position that Firefighter Raul Benavides-Espinal did not abandon his position with the Milford Fire Department and the City should not have precluded him from his wages. Attorney Hunsberger thanked the Commissioners for their time and consideration.

Commissioner Stein noted that he now had a copy of the grievance and noted that it did not have a Grievance Identification Number associated with it. Chief Edo indicated that this grievance did not come from the Union but was filed by Firefighter Raul Benavides-Espinal directly. It is the Union that normally attaches an identification number to the grievances it files. Commissioner Stein asked what number grievance the Department was up to in this calendar year for the purpose of being able to identify and track this grievance. It was agreed that this was the first department grievance of 2019. Commissioner Stein requested that for our identification and tracking purposes, he would like to identify this Grievance as 19-001.

Commissioners Stein and Riso made and seconded a motion to table the matters discussed in Agenda Items 9 (Termination of Firefighter Raul Benavides-Espinal) and 8 (Grievance 19-001) for one week to July 23, 2019 at 7:15 pm in a Special Meeting to allow him and the other Commissioners time to review the CBA and to consider the issues raised in Agenda Items 9 and 8. Motion carried unanimously.

Commissioner Stein requested that the Chairman and the Chief notify the City Clerk's Office of the Board intentions to hold a Special Meeting on July 23, 2019 at 7:15 p.m. with regard to Agenda Items 9 and 8.

10. **New Equipment:**

The Chairman noted that we discussed the acquisition of new vehicles earlier in this meeting and reminder the Commissioners that the voted to makes these purchases a few months ago.

11. **Comments and Concerns of the Commissioners:**

None.

12. **Adjournment:**

Commissioners Smith and Riso made and seconded a motion to adjourn at 20:40. Motion carried unanimously.

Recorded by Diane Stein