

September 4, 2014

A Regular Meeting of the Board of Fire and Police Commissioners was held on the above date, commencing at 5:32 p.m.

PRESENT: Commissioners: Sarah W. Morgan
Kathryn A. Hein
Michael M. O'Hear
Ann Wilson
Marisabel Cabrera
Steven M. DeVougas

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

Commissioner Morgan informed the public the Board will be proceeding out of order and moving the Standard Operating Procedures and body camera communication to the end of the meeting and will receive public comment regarding them at that time.

The Director presented for adoption minutes of the Regular Meeting of July 24, 2014. Commissioner Wilson moved approval of the minutes, seconded by Commissioner Hein. The motion carried unanimously.

1. NEW BUSINESS:

a) The Director reported that pursuant to the Rules of the Board, the Commission is required to have an election of officers for the ensuing year for the positions of Chair and Vice-Chair. The Chair called for nominations for the position of Chair. Commissioner Hein nominated Commissioner Morgan to continue as Chair, seconded by Commissioner Wilson. The motion to re-elect Commissioner Morgan as Chair carried unanimously.

The Chair called for nominations for the position of Vice-Chair. Commissioner DeVougas nominated Commissioner Hein to continue to be Vice-Chair, seconded by Commissioner Morgan. The motion to re-elect Commissioner Hein Vice-Chair carried unanimously.

b) Commissioner Morgan appointed Commissioners Hein, Cabrera and DeVougas to the Testing and Recruiting Committee and Commissioners O'Hear and Wilson to the Complaints and Disciplines Committee.

2. EXAMINATIONS:

a) The Director stated the examination announcement bulletins for Fire Equipment Dispatcher and Fire Cadet will be held over until the September 18th meeting.

3. FIRE DEPARTMENT:

a) The Director stated the promotions of Brian L. Smith to Deputy Chief, Fire, and Kevin D. Hafemann and Steven G. Riegg to Battalion Chief, Fire, as presented by Chief Rohlfing, will be held over until the September 18th meeting for interviews.

b) The Director presented correspondence dated August 25, 2014 from Chief Rohlfing, wherein he requests classification of the position of Athletic Trainer/Injury Prevention Coach. The Board referred the request to the Department of Employee Relations (DER) for classification.

c) The Director presented correspondence dated August 17, 2014 from Chief Rohlfing, wherein he requests the reclassification of one position of Paramedic Field Lieutenant/Fire Paramedic Field Lieutenant to Fire Lieutenant. The request will be forwarded to the DER for reclassification. Commissioner O'Hear moved approval, seconded by Commissioner Hein. The motion carried unanimously.

d) The Director presented correspondence dated August 22, 2014 from Chief Rohlfing, wherein he notifies the Board he granted Firefighter Manuel J. Rodriguez a 3-month extension to his leave of absence until November 25, 2014, effective May 25, 2014.

e) The Director presented correspondence dated August 4, 2014 from Chief Rohlfing, wherein he notifies the Board Lieutenant Lowell E. Smith returned from his leave of absence, effective August 4, 2014.

f) The Director presented correspondence dated August 25, 2014 from Chief Rohlfing, wherein he notifies the Board he terminated probationary Fire Equipment Dispatcher Lori Spankowski, effective August 19, 2014.

4. POLICE DEPARTMENT:

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

TO POLICE SERGEANT, on a waiver basis, from eligible list adopted December 19, 2013, contingent upon successful completion of a drug screening, effective September 14, 2014:

#44 – RAYMOND C. BRATCHETT.

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

TO POLICE AIDE, from the contingency appointments approved on June 5, 2014, effective August 4, 2014:

#28 – ROBERT BLASK; #30 – MARCO ORTIZ; #31 – CHELSEA MCDOWELL; #32 – JOSHUA KRANZ; and #36 – DAVID MICHAELS.

TO POLICE AIDE, from the contingency appointments approved on June 5, 2014, effective August 6, 2014:

#37 – TERESA WESTFAHL and #38 – NICHOLAS ZARAGOZA.

TO CUSTODIAL WORKER II, from the DER eligible list, contingent upon successful completion of a medical examination and drug screening, effective September 15, 2014:

ALBERT M. GREENE, JR.

TO SCHOOL CROSSING GUARD, with the following effective dates:

TIMOTHY BAILEY (8/6/14); DANYELL CHAMBERS (8/6/14); LILLIE GRAY (8/7/14); BRENDA JONES (8/7/14); BRENDA JOHNSON (8/7/14); SHERRY SHEAD (8/7/14); GEORGE FRISON (8/8/14); SERGIO MORAN (8/8/14); ANTHONY BROADNAX (8/12/14); PAMELA FULLER (8/12/14); WALTER SMITH (8/12/14); RICHARD HEIL (8/12/14); JOYCE BRYANT (8/13/14); and LINCOLN RUSSELL JR. (8/21/14).

TO SUBSTITUTE CROSSING GUARD, with the following effective dates:

MARY SCHNEIDER (8/6/14) and MARY CORNELIUS (8/13/14).

c) The Director presented correspondence dated August 20, 2014 from Chief Flynn regarding the request for reappointment of April L. Coleman to Office Assistant IV, to be effective September 14, 2014. Commissioner O'Hear moved approval, seconded by Commissioner Wilson. The motion carried unanimously.

d) The Director presented correspondence dated August 12, 2014 from Chief Flynn, wherein he requests the Board to rescind the following five (5) appointments to Police Aide approved on June 5, 2014, because the candidates either withdrew or did not qualify for the position: #6 – Chueshie Xiong; #12 – Anthony Rodriguez; #13 – Jose Bermudez; #17 – Sergio Santa Cruz; and #25 – Michael Hendrix. Commissioner Hein moved approval, seconded by Commissioner Wilson. The motion carried unanimously.

- e) The Director presented correspondence dated August 27, 2014 from Chief Flynn, wherein he requests the Board to refer the position of Maintenance Technician II to the DER to conduct a recruitment, administer an examination and provide an eligible list. The request was referred to the DER.
- f) The Director presented correspondence dated August 12, 2014 from Chief Flynn, wherein he notifies the Board he suspended Police Officer Gerald W. Winding for ten working days without pay.
- g) The Director presented correspondence dated August 12, 2014 from Chief Flynn, wherein he notifies the Board he suspended Police Officer Cheuyemi H. Yang for seven working days without pay.
- h) The Director presented correspondence dated July 21, 2014 from Chief Flynn, wherein he notifies the Board he terminated probationary Police Telecommunicator Tanisha R. Caldwell.

5. UNFINISHED BUSINESS:

- a) The Director presented the Milwaukee Police Department's (MPD) amendment to Standard Operating Procedure 060-Animals for approval, which was held over from the July 24th meeting to obtain input from the public. He stated one of the primary changes to the SOP is the officers are receiving more training in their in-service training. The SOP calls for the officers to consider other options than lethal force, when possible, when they encounter a vicious animal. Commissioner Morgan asked if anyone from the public wanted to be heard. No comment was made from the public present. Commissioner Cabrera moved approval of SOP 060, seconded by Commissioner O'Hear. The motion carried unanimously.
- b) The Director presented the MPD's amendment to Standard Operating Procedure 070-Citation Procedures for approval, which was held over from the July 24th meeting to obtain input from the public. He stated the Board received a communication from the Municipal Court wherein they indicate they are not taking a position on the SOP, but they wanted the Board to be aware of some of the practical implications of doing away with the policy. Commissioner Cabrera stated she would like to go back to the old system. Commissioner Morgan stated the change in this SOP reverts back the policy to where a fingerprint will only be requested at the discretion of an officer if the identification is in question. Commissioner Cabrera moved approval of SOP 070, seconded by Commissioner DeVougas. The motion carried unanimously.
- c) The Director presented the MPD's amendment to SOP 085 – Citizen Contacts, Field Interviews, Search and Seizure. Commissioner Morgan asked if anyone from the public would like to be heard. Chris Ahmuty, Executive Director of the American Civil Liberties Union (ACLU) stated they have concerns with the citizen contacts and the high volume of officer initiated stops in Milwaukee. He commends MPD for trying to align this with the Wisconsin Law Enforcement Accreditation Group to the extent it allows for a valuation of compliance. He stated there are statistics available, but they are difficult for the ACLU to get and it frustrates them as to the transparency, especially as it relates to consent searches. The ACLU has asked how many consent searches there are, what the racial breakdown for consent searches is and for what circumstances are the searches performed. He stated if this information is not available to them and others, the ACLU will ask to suspend MPD's authority to conduct consent searches. Under Section 085.30-Vehicle Contacts, Mr. Ahmuty requested the Board to take this section out until the community can have a good discussion regarding it. Commissioner Wilson asked if Mr. Ahmuty received his information. Commissioner Morgan asked Chief Flynn if they keep data on consent searches. Chief Flynn stated the information they have is on car stops and pedestrian interviews, not on consent searches separately. The purpose of this policy is to place limitations on consent searches. An unintended consequence of past procedures was low-level drug arrests that MPD was not interested in. MPD recognized that and does not encourage it. Marijuana arrests have decreased over the last several years. MPD saw an opportunity in this policy to tighten up the procedures for consent searches, so there would be fewer rather than more, but there is not a separate database for consent searches currently. Inspector Hoerig stated they are requiring the officers to fill out a form on a consent search and MPD is keeping those forms, and their inspections unit is tracking them to see who the officers are asking for consent and ensuring they are complying with the policy. MPD has not tracked consent searches in the past, but through their inspections, they are requiring a form to be filled out with every consent search, so they will have that ability going forward to be able to see if there are any gaps between their policy and their practice. Commissioner Morgan asked if that is data that can be reported to the Board on an annual basis. Inspector Hoerig stated in the future they will be able to do that.

Brenda Bell-White, a citizen of the community, spoke regarding the traffic stop initiative which she stated is racial profiling. She stated after 7:00 p.m. you can go anywhere in the inner-city of the north and south sides and it is a militarized police operation. On 35th Street from Highland to North Avenue, there are police on both sides of the street, on every block stopping people for bogus reasons. They are harassing, intimidating and dehumanizing black people in the community. That has to change. She further stated Chief Flynn is ineffective. Any police chief in this country that implements racial profiling programs is ineffective. We need a commission and a mayor that will not hire racist police chiefs. She believes Chief Flynn needs to be fired for those reasons.

Commissioner Cabrera stated she was concerned about the racial profiling when she read the SOP and believes the minority neighborhoods were being targeted. The phrasing of the SOP and of pretext stops has the individual hoping the stop ends with a warning. She further stated it sounds like a strategy to stop people and intimidate them.

Chief Flynn stated MPD is currently the only police department in Wisconsin that maintains data on their car stops. As you will recall, the law was repealed by this legislature. Nonetheless, MPD voluntarily committed to maintain that data. He further stated he has done annual reports on car stops before the Board and provided the percentage of their car stops in each district. It is reflective of the city's crime. If the district has sixteen percent of the crime, generally, it has sixteen percent of the car stops. He has showed the charts before and is happy to show them again. He stated he has also shown charts of MPD's stops which match up almost perfectly with the racial breakdown of victims and described offenders by district. He rejects that MPD is engaged in racial profiling. MPD is very heavily engaged in distressed and disadvantaged neighborhoods that suffer from the disparity and crime victimization in the city. Eighty-five percent of the city's shooting victims in any given year are African-American. Sixty percent of the robbery victims are African-American. These are significant disparities and MPD is charged with doing something about it. What they do about it, among other things, is minimally intrusive citizen contacts and they take pride in the fact that they exercise restraint and they voluntarily are putting limitations on consent searches. Eighty percent of the time, even though officers have valid reasons to write citations, they don't. Chief Flynn stated they are not fishing expeditions, they do not say go out and decide who is suspicious, they are saying enforce the traffic laws, which is very easy to do. It is very easy to commit a traffic offense. In using that, they engage with the public and are happy to give the many warnings that they do. For the people who live in those neighborhoods that are afflicted by crime, expect MPD to do something. One of the things they do is spread their officers in locations where crimes occur most frequently and ask them to be active and engage. We expect them to be fair and impartial. The data from their stops is reflective of the communities and neighborhoods MPD is policing. Commissioner Cabrera stated she understands the reason behind this, but at the same time it would be easy to ignore the fact that the people who reside in those neighborhoods feel differently. Chief Flynn stated that is probably why citizen complaints have declined every year for the last six years. He suggested Commissioner Cabrera review the FPC's records. Chief Flynn stated absent complaint activity, he has to go with what he believes is occurring. Most people support MPD's actions taken on their behalf to make them safe. Commissioner Cabrera stated a lower number of complaints does not mean there are not complaints. Chief Flynn stated he cannot prove a negative. Commissioner Cabrera stated she is not asking him to; she is making a point that they do not have to pretend that there is no tension between the communities and the police department. What we need to do is find solutions to bridge that gap.

Commissioner O'Hear stated he believes what was just seen repeats a difficulty the Board has run into often in recent years which is some uncertainty as to what the public view really is. We hear from some segments of the community and we are very grateful for the input at our meetings from people who attend our meetings. It is hard for us to know how representative those views are. He asked the Director if he would be able to provide an update regarding the survey effort the Board has undertaken to learn more about citizen views of police citizen contacts. The Director stated the University of Wisconsin has been commissioned to do a community survey. The survey has begun; it is in progress right now and he expects the results by early to mid-fall. As the survey is put together, it is going to be a good barometer of what we are talking about tonight because there are some built-in control measures. There has been a controlled test on the survey with a small segment and found that the control measures and the liability and validity were really within the range we were expecting. Everyone in this room and at the table understands it is an issue. We are proactively trying to elicit what the community really feels about it and when the survey results come in,

we will have more information about it. He further stated with respect to the SOP, I think we had a good discussion on it. It is good to have people come in and talk about it; that's why we are here, to hear what people have to say about it. MPD does need to have something in place to guide the officers as to what they do in these circumstances and that is the whole purpose why the Chief brought this forward. The Chief did not point this out, but MPD as of last year is one of the very few departments known in the country that requires officers in a consent search to inform the person they can decline the search, and requires the officers to put it down in writing, have the person sign the form, and if they have a dash camera, that they do the transaction on the video camera. These are not things he has seen MPD take lightly; these are by far the exception in police departments in the country. Commissioner Morgan stated they need to look more into the complaint procedure to make sure they have a valid and easy to use citizen complaint procedure.

Tracey Dent, a citizen of the community, spoke to Chief Flynn regarding the police stopping minorities and his recent stop by MPD. He believes the officers are abusing the initiative. He believes Chief Flynn needs an open forum on the initiative. He stated every time he sees a police officer he cringes. He further stated he knows the crime is high in those areas, but the two have to be balanced. Commissioner Morgan informed the public that the comments made are to be addressed to the Board. This is an opportunity to address the Board, not Chief Flynn. Also by addressing the comment to the Board, they want to hear what the public is saying. Commissioner Wilson stated she believes there are two sides either MPD stops no one or everyone. She believes there needs to be a community discussion. She remembers quite some time ago Chief Flynn called in a number of community people and talked to them about this. She does not believe Chief Flynn is not amenable to anything that makes sense.

Debra Jenkins, a citizen of the community, spoke regarding her neighborhood in the Sherman Park area. She sees the police saturated in the area. She feels they are setting a trap. This area needs to be looked at. She understands crime is on the rampage in that area. Crime is everywhere. The community does not need officers just sitting there idle waiting to catch someone who is the same color because that is what mostly lives in that area.

Josh Del Colle, a citizen of the community, wrote an article last year regarding Debra Jenkins' situation and other situations. While writing this article, he came across an article Chief Flynn wrote about community policing when he was back in North Carolina. He stated it seems everything Chief Flynn has been stating in this particular SOP goes against that article. He stated the 53206 zip code has the highest black male incarceration in the entire country. That is directly related to policing. The traffic stops lead to people getting pulled over for petty violations and getting arrested for not being able to afford to pay the tickets. He has heard Chief Flynn speak in the past regarding issues of poverty and crime being connected. He is aware of it; he's not a stupid man, but he is putting out a racist policy, a policy that incriminates more black people than white people. If you put these traffic stops in the UWM area and pulled over all the white kids, you would probably find marijuana in their cars. If Chief Flynn was really serious about getting at the crime, it would target all areas of Milwaukee.

The remaining discussion on this and the remainder of the agenda items was discontinued for the evening due to numerous citizens wanting access to the meeting, but the room was to capacity.

6. ADJOURNMENT:

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

The meeting concluded at 6:21 p.m.

Respectfully submitted,

Michael G. Tobin
Executive Director

MGT:cj