

**AMENDED MINUTES
PERSONNEL COMMITTEE**

Tuesday, June 11, 2013

City Hall, Room 207

5:30 p.m.

Members Present: Chair Andy Nicholson, Ald. Amy Kocha, Ald. Tom Sladek, Ald. Tom DeWane

Others Present: Ald. Mark Steuer, Ald. David Boyce, Director Lynn Boland, Director Rob Strong, Chief Tom Molitor, Director Dawn Foeller, Chief Mike Niefert, City Attorney Wachewicz, DePere City Attorney Judith Lehman-Schmidt, IT Administrator Mike Hronek, Chad Bronkhorst, Ryan Gibbons and others

1. Roll Call.

2. Adoption of the Agenda.

A motion to adopt the agenda was made by Ald. DeWane, seconded by Ald. Sladek. Motion carried unanimously.

3. Approval of the minutes of the meeting of May 14, 2013.

A motion to approve the minutes of the meeting of May 14, 2013 was made by Ald. Sladek, seconded by Ald. DeWane. Motion carried unanimously.

4. Request to fill the following positions and all subsequent vacancies resulting from internal transfers.

a. Building Custodian I – Police Department

A motion to approve the request to fill the Building Custodian I vacancy in the Police Department and all subsequent vacancies resulting from internal transfers was made by Ald. DeWane, seconded by Ald. Kocha. Motion carried unanimously.

b. Clerk Typist III – Inspection

A motion to approve the request to fill the Clerk Typist III vacancy in the Inspections Division and all subsequent vacancies resulting from internal transfers was made by Ald. Kocha, seconded by Ald. Sladek. Motion carried unanimously.

5. Request from the Police Department to approve special leave for Officer Secor and Officer Jordan to attend Firearms Training in Waverly, TN from November 15-17, 2013.

Director Boland stated there is a provision in the collective bargaining agreement which states, the Chief of Police, in consultation with the City Personnel Committee may authorize special leave of absence with pay for an officer to attend schooling or law enforcement seminars to train in subjects related to the work of department personnel that is a benefit to both the employees and the City. The costs for the training, travel, and room and board will be borne by the officers. The only cost to the City is the duty time of the officers making this request.

Ald. DeWane inquired about the cost and type of training the officers will be attending. Chief Molitor explained this is specialty firearms training two members of the training team have sought out. The officers requested to use duty time and pay for the training themselves because the department is unable to cover the cost of the out-of-state travel. The officers will bring back what they learn and train other department members. The estimated cost for ammunition, travel, hotel and training could be as much as \$2,000.

Ald. Kocha inquired how the officers are paid while they are attending the schooling. Chief Molitor stated the officers are paid their regular duty pay, but do not receive any premium pay for hours worked over.

A motion to approve special leave for Officer Secor and Officer Jordan to attend Firearms Training in Waverly, Tennessee from November 15 – 17, 2013 was made by Ald. Kocha, seconded by Ald. Sladek. Motion carried unanimously.

6. At the request of the Personnel Committee, a review of Personnel Policy, Chapter 11 regarding Travel & Reimbursement, with possible action.

Director Boland stated this request is follow-up to a discussion in May regarding what happens when an individual requests travel on short notice and there's not enough time to go through the normal approval process. The policy manual does address the process in Chapter 11, Travel and Reimbursement. Director Boland is recommending modifying 11.1.2 regarding short notice emergency authorization for out of state travel requests to add language stating a majority of the Mayor, Personnel Committee Chairperson and the President of Council.

Ald. DeWane is opposed to making this change; the current language requires approval from all three. Without approval from all three, Ald. DeWane feels a number of the travel requests would not be brought to the committee. Ald. Kocha inquired if language needed to be inserted in case the Personnel Committee Chair and the President of the Council was the same individual.

A motion to receive and place on file the review of Personnel Policy, Chapter 11, Travel and Reimbursement was made by Ald. DeWane, seconded by Ald. Sladek.

Ald. Nicholson inquired if the policy had been violated in regards to approval of the travel request in May and what, if any, action might be involved. Director Boland responded the policy may have been violated. There were several department heads, the Mayor and President of the Council involved in the process and that an investigation would need to be completed before any determination could be made. After discussion, the motion to receive and place on file the review of Chapter 11 was approved 3-1. Ald. Kocha voted no.

7. At the request of Ald. Nicholson a review of the Web and Graphic Designer position.

The committee reviewed the report of time spent working on various projects with the Mayor. The report included time spent on special projects, social media, marketing and economic development, presentations and photography work.

Ald. Nicholson inquired if there are any concerns on how the Web and Graphic Designer time is being spent. Director Boland stated there doesn't appear to be any concerns. Over a five month period of time, the Web and Graphic Designer spent 6.5% of the time working on projects with the Mayor, while the other 93.5% of the time was spent working on IT projects.

Ald. DeWane felt the hours stated on the report weren't accurate and asked for further explanation. IT Administrator Mike Hronek explained that Mr. Rand may consider some of the time spent with the Mayor as part of a different task, such as working a social media function for a different department that the Mayor is also attending. Director Boland suggested Ald. DeWane, Mr. Hronek and Mr. Rand sit down together to discuss any questions or concerns.

A motion to hold the review of the Web and Graphic Designer position for one month and schedule a meeting with Ald. DeWane, Director Boland, Mr. Hronek and Mr. Rand for further review of time spent working on various projects was made by Ald. DeWane, seconded by Ald. Kocha. Motion carried unanimously.

8. Report by the Human Resources Director on upcoming insurance benefit timelines.

Director Boland reviewed the upcoming benefit timelines for health and dental insurance, life and long term disability insurance and flexible spending accounts. A presentation on the Affordable Care Act (ACA) impact by M3 needs to be scheduled with the Personnel Committee. Ald. DeWane requested that meetings are also scheduled with M3 and employees to discuss the ACA. Director Boland stated meetings will be scheduled with employees at some point. Director

Boland also pointed out the City will not be eligible to join a marketplace exchange until 2017. Information on the exchanges is due out in the fall of 2013. After discussion, the presentation on the ACA was scheduled for 2:00 p.m. on Wednesday, August 7, 2013. Invitations will also be extended to other members of the City Council.

A motion to receive and place on file the report on upcoming insurance benefits was made by Ald. Sladek, seconded by Ald. Kocha. Motion carried unanimously.

9. Fact-finding hearing by the Personnel Committee regarding Fire Fighter Grievance 13-01. The Personnel Committee only may meet in closed session to deliberate.

Director Boland outlined the format for the hearing, stating the Committee may request a brief overview from each party and ask questions; then the committee may go into closed session to deliberate.

Atty. Wachewicz stated that Judy Schmidt-Lehman, Attorney for the City of DePere is present tonight to advise the Personnel Committee.

Chad Bronkhorst, President, Fire Fighters, Local 141. Mr. Bronkhorst addressed the Committee and stated this grievance is a violation of the collective bargaining agreement. Our track record has always been to get along and work mutually through issues which have been done in a number of areas, such as, the Allouez merger, inter-facility transports and the collective bargaining agreement with the 5.9% contribution for WRS. In this particular instance, that didn't happen. This was one of those do it or else.

Ryan Gibbons, Vice President, Fire Fighters, Local 141. Mr. Gibbons stated the violation of the collective bargaining agreement is the language in the agreement that states *"No employee in the firefighting force shall be assigned to any duty which is unrelated to firefighting, fire prevention, or rescue work or to the care and maintenance of firefighting equipment and apparatus, or to the normal cleaning required to maintain the quarters and the area"*. Mr. Gibbons stated that Chief Nieft approached Local 141 about a program which was named the Hook and Ladder. This program involves going out and paying a visit to people who were discharged from Bellin Hospital, essentially to check on the individuals to see how they were doing. The basis of the program was to keep the people from being re-admitted to the hospital after they were discharged. Because of the Affordable Care Act, there are provisions in the Act that if the patient is re-admitted to the hospital after their discharge, there is lesser payment or in some cases, no payment to the hospital for the re-admittance. The basis of this program is for Bellin to save money. Chief Nieft brought this program to the local late last year, a committee was formed to discuss the process, and meetings were held to discuss the program. Mr. Gibbons further explained the timeline and the steps the Local took to work out a compromise. No agreement was reached

with management so a grievance was filed. The language being contested is that "No employee in the firefighting force shall be assigned to any duty which is unrelated to firefighting, fire prevention or rescue work... There is no question this is not related to firefighting. There is a fire prevention aspect to the Hook and Ladder program as some of it is the medical piece and some it is fire prevention where you do an inspection of the house looking for fire hazards. Those job duties were never done by on-duty crews in the past, the majority of those duties were done by the Fire Inspectors or Lieutenant. The rescue work piece was put into the collective bargaining agreement with the intent towards the ambulances. Now with the federal mandates, our ambulances are called ambulances, they used to be called rescue squads and rescue work was done on a rescue squad; an emergency service that we did. The Hook and Ladder program is not an emergency service, it is home health care where firefighters visiting patients after they are discharged from the hospital. Whether this is rescue work is up for debate. This is a new procedure, there is no protocol for it and it needs to be bargained.

Mr. Bronkhorst stated the Local is not against this program and there is potential for it to be good for the City, but it needs to be bargained.

Chief Niefert stated it's a reach to say this program is unrelated to the job duties of a firefighter. The firefighters are not doing home health care, but rather calling on people who have not qualified for home health care and if we find situations that require home health care service, they are reported back to Bellin so those individuals can be offered home health care. This program deals with people who are at some risk, but not at enough risk to qualify for any of these types of programs. The vision of health care is evolving, and this just a way of looking at how to care for people, and keep down the costs of health care. The safety checks are certainly a fire prevention job duty. In regards to the inter-facility transports, the membership received an increase in EMS pay, and as it turned out that program didn't go anywhere, but the EMS pay still exists. Chief Niefert stated the union was not frozen out of the meetings, most of the meetings were formatting meetings and there is a string of emails that shows the union was updated each time one of those items was discussed. There was a process of putting the program together, there was no negotiating going on, and there was a determination to give this program a shot. Chief Niefert had offered the Local to wait and sit down and talk after 25-calls had been completed before making any long term decisions because we felt we would have a better feel for the program. As long as it's related to what we are here for, then we should consider it. There was never a point of a do it or else; there was no middle ground to be had. The firefighters stated they would not do this program on duty, we want overtime. Chief Niefert stated he can't take a program that has occurred 6-times in 11-weeks and pay out 4-hour minimums for overtime. When the volume of the calls gets to a point where it can reasonably be taken off duty, then there can be a discussion with Bellin Hospital and we can evolve that program. For now for the randomness of the calls, it makes no sense. Calls last 20-30 minutes and so far, there have

been 6-successful calls since the 3rd week of March – how do you justify overtime for that. All emergencies take priority over these calls.

Ald. Nicholson asked who stated specifically they wanted overtime. Chief Nieft replied the Local stated they would only do this on an overtime basis. Ald. Kocha asked whether removal of the safety checks would meet the definition under the contract. Chief Nieft stated they are looking out for the welfare of our people; we're trained to do it and trained to recognize situations that need to be reported back where individuals are possibly at risk of deteriorating and not recovering properly. It is not an emergency, but it fits within the things we are trained to do and the things our citizens expect us to do.

Questions for Chief Nieft included:

- The procedures used in the calls and how all items on the checklist can be accomplished with 30 minutes.
- The negotiation of non-emergency transports three years ago.
- How this program is part of any function of the Fire Department.
- Allouez citizens are included in the program.
- About the cost of the calls, and whether \$50 per call is covering all costs involved.
- The criteria for participation in the program. Income level is not a factor, individual must live in our jurisdiction, does not qualify for other services, and is not so young and independent that we know they will be okay and take care of themselves.

Questions for the Union included:

- Whether other assignments performed by firefighters such as B calls, lift assists, blood pressure checks and welfare checks in the community were challenged by the union.
- Why is the word “unrelated” included in the language if not to provide the Chief with discretion to respond to changing circumstances or services which use the skills and training of the employees?

After further discussion, a motion to go into closed session was made by Ald. Kocha, seconded by Ald. Sladek. Roll call vote, 4-0.

Reporting out of closed session, a motion to uphold the grievance was made by Ald. DeWane, seconded by Ald. Nicholson. DeWane and Nicholson voted yes, Kocha and Sladek voted no. 2-2 vote.

Ald. Kocha asked counsel about the ramifications of the tie vote.

Atty. Schmidt-Lehman stated that unless there is a subsequent motion, the committee is deadlocked and there is no decision on the grievance from the Committee. Under those circumstances, the determination of the Human Resources Director remains in place and the grievance is denied. The

Committee will need to send a letter to the participants within 5-days and then the grievance can move forward to the Wisconsin Employment Relations Commission unless there is a subsequent motion.

Ald. Kocha stated that even though she voted not to uphold the grievance, it comes down to the specific language in the contract and she believes the language has been consistently viewed broadly and it's in the City's interest to view it broadly. My vote has nothing to do with my opinion of the program; frankly I think the program has merits.

10. Report of Routine Personnel Actions for regular employees.

A motion to receive and place on file the report of routine Personnel Actions for regular employees was made by Ald. Sladek, seconded by Ald. DeWane. Motion carried unanimously.

11. Update and discussion regarding labor negotiations.

A motion to convene in closed session was made by Ald. Sladek, seconded by Ald. DeWane. Roll call vote 4-0.

Reporting out of closed session, a motion for staff to proceed as directed in closed session was made by Ald. Kocha, seconded by Ald. Sladek. Motion carried unanimously.

There being no further business, a motion to adjourn was made by Ald. Sladek and seconded by Ald. Kocha at 8:15 p.m. Motion carried unanimously.

Respectfully submitted,
Peggy Barden
Recording Secretary