

FRANKFORT FIRE PROTECTION DISTRICT
FRANKFORT FIRE DEPARTMENT

Minutes of the Special Public Meeting of the Board of Trustees of the Frankfort Fire Protection District, Will County, Illinois, held at Fire Station Number One, 333 West Nebraska Street, Frankfort, Illinois, in said District at 10:00 A.M. on the 29th day of January 2015.

CALL TO ORDER:

The President called the meeting to order and asked for a roll call.

Upon the roll being called, the following Trustees answered present:

William F. Hoffmeister, Robert Jacobs, Michael Kavanagh, Donald Lorenz and Daniel Rossi.

Chief Grady, Asst. Chief Wilson, Attorney Shawn Flaherty, Attorney Tom Manzella and Lt. Christopher Wolf were also present.

PLEDGE OF ALLEGIANCE:

All present stood for the Pledge of Allegiance.

PUBLIC COMMENTS:

None.

NEW BUSINESS: Application of Lt. Christopher Wolf for PSEBA Benefits

1. Review of Pension Record
2. Input from Lt. Wolf

Trustee Robert Jacobs introduced Attorney Shawn Flaherty and stated that Attorney Flaherty will be conducting this meeting.

Attorney Flaherty noted the Attorney for Lt. Christopher Wolf (Tom Manzella) had not yet arrived and was advised by Lt. Wolf that he (Tom Manzella) would be arriving momentarily.

For the benefit of all present, Attorney Flaherty explained the process by which this meeting would be conducted in reference to the "subpoenaed" documents from the Pension Board Hearing and noted this meeting is not a Hearing. Lt. Christopher Wolf and his Attorney will be allowed to present their case.

At 10:05 A.M., Attorney Tom Manzella arrived. Lt. Wolf and his attorney left the room for a brief discussion and returned at 10:10 A.M., to resume the Special Board Meeting referencing the Application for PSEBA Benefits.

Attorney Flaherty stated the following:

1. The written application for PSEBA Benefits was made on November 18, 2014, by Lt. Wolf;
2. The Pension Board Disability Hearing documentation and the approved FFPD Pension Board Findings were released to the Board of Trustees for their review; and,
3. The Board of Trustees has the responsibility to either grant or deny the Application.

Attorney Flaherty explained that two (2) main elements need to be proven in order to grant the Application for Health Insurance benefits:

1. "Catastrophic injury" defined by Case Law "Krohe vs. City of Bloomington" -- if awarded a "line of duty" Disability Pension, then employee meets the criteria for "catastrophic".

NEW BUSINESS: [Continued]

Attorney Flaherty stated that Lt. Wolf has been awarded a "line of duty" Disability Pension from the Pension Board and does meet this criteria.

Attorney Flaherty noted the second element also refers to Police Officers and read the following legal verbiage:

2. "In order for the Law Enforcement Correctional or Correctional Probation Officer, Firefighter, spouse or dependent children to be eligible for insurance coverage under this Act, the injury or death must have occurred as a result of the Officer's response to first pursuit, the Officer's or Firefighter's response to be a reasonable emergency, an unlawful act perpetrated by another, or during an investigation of a criminal act."

Attorney Flaherty stated the FFPD Board of Trustees needs to focus on criteria #2 -- as to what qualifies under this Act in order to award this Health Insurance Benefit.

For the benefit of the Board, Attorney Flaherty quoted the following excerpts from the transcript of Lt. Wolf's testimony at the Pension Hearing, which was held on September 4, 2014, before the FFPD Pension Board as to how he was injured:

1. As per the transcript, Lt. Wolf was engaged in a training incident (trying to simulate a fire) at Station 3, along with new Firefighter Berge and during that "set-up", Lt. Wolf testified as follows:
"So as we started the drill, I did the quick walk around. Firefighter Berge grabbed the initial 100 feet of hose, which is in a little hose pack, he threw that on his shoulder, I stepped up onto the rear of the vehicle, I grabbed a longer "ear" of hose, I jumped off the rig. When I jumped off the rig, I felt a "pop" in my back. At that point, I kind of hesitated and stopped and I really, kind of, didn't know happened. Initially, I thought, you know, I just strained something."

Attorney Flaherty stated that was his (Lt. Wolf) explanation for the first "pop" he felt in his back.

2. Excerpt two: Lt. Wolf was asked the following:
Question: "So you kind of jump off the back of the truck -- what is the height from where you jump down with the hose?"
Answer: "About two and one-half (2.5) feet."

Question: "OK. When you felt the "pop" in your back, did you feel any sensations in terms of burning pain, anything at that point?"
Answer: "Yeah. I would describe it as a burning and, like an overwhelmingly warm feeling in my lower back. And it was. It was like a sharp pain, initially, and then kind of like a burning sensation. And you know, I kind of stopped and hesitated while I was pulling the line. I thought I might have just simply twisted the wrong way getting off the back of the rig. I paused for about ten (10) seconds and I continued on with the drill to lead out the hose line, the two and one-half (2-1/2) inch hose line."

Attorney Flaherty stated that Lt. Wolf later testified that he was wearing about 75 pounds worth of gear when he jumped off the truck and the hose was not "charged".

NEW BUSINESS: [Continued]

3. Excerpt three: Lt. Wolf refers to a second "pop" in his back:

Question: "OK. Tell the Board what happened next."

Answer: "We were leading out the hose line. The way the Burn Tower is set up, there is a side entrance that we were going in to make entry into the building. We had discussed with Firefighter Berge that we had a barrel on the second floor and that we would also start to put enough line on the second floor, that if we needed to go the third floor, that we could also make an additional attack on the third floor. So he was leading into the building, I had the 2-1/2 inch. We had led into the first floor and "charged" the hose line at that point. Both the 2-1/2 and the inch and three-quarter (1-3/4), that was connected to the 2-1/2. At that point, Firefighter Berge took the nozzle, he advanced up the stairway. I initially was standing at the bottom of the stairway, from the first floor to the second floor, helping "loop" the hose around the corner so it didn't get caught up. I heard him open up the line and knock down the fire we had in the barrel. He communicated back down to me that he needed, approximately, another 15 feet to have more line on the second floor. At that point, I walked up about 3 stairs and I reached over and I grabbed. At that time, it was a 2-1/2 that was left on the staircase and the inch and three-quarter (1-3/4) was on the full second floor. I reached down and grabbed the 2-1/2, I lifted it up and pushed it up and that's when I felt another "pop". And this time it brought me to my knees inside the tower and it just took my breath away. The pain at that point shot from my back, through my hip and down my leg. And the best way I could describe it is, it felt like an electric shock or like lightning just going through my lower middle back, through my buttock area and down my leg and into my foot."

Attorney Flaherty noted that was the second "pop". The first "pop" - dropping from the truck to the ground. The second one in the course of picking up the hose and supplying it to the other firefighter, up a few stairs. That's what was testified under oath as being the cause and how the individual was injured and how his back was injured on that day, on that scene. The jumping off the truck and carting hose upstairs is the ideology of his injury.

Attorney Flaherty turned the meeting over to Attorney Manzella for his presentation.

Attorney Manzella stated the Pension Board referred to "40 ILCS 14.110" when they deemed the injury occurred in the "line-of-duty". Firefighters know that, when training exercises take place, they are to act as if the training was a real situation. The Pension Board determined the Station 3 training activity, with a live fire, was acting as if this was an emergency.

Attorney Manzella contends the third transcript excerpt meets the criteria for an award of insurance benefits be given to Lt. Wolf. He (Lt. Wolf) was dealing with a "charged" hose, in a fire situation, where his trainee on the next level needs more hose - and he is getting it from around the corner. He needs to bend down and pull the "charged" hose up. To Attorney Manzella, although it was training, he would be doing the same thing as if it was a fire in a house fire and this takes it from a duty to an emergent situation.

Attorney Manzella reiterated the PSEBA verbiage and stated the 2 "pops" qualify under these guidelines. Lt. Wolf has met both criteria and stated the Case Law Attorney Flaherty quoted was from 2003.

Attorney Manzella reminded the Board of Trustees that all of these training exercises, with a "live" fire, are considered emergencies - just as if you were actually at a house or car fire.

NEW BUSINESS: [Continued]

Lt. Christopher Wolf "thanked" the Board of Trustees for allowing him to present his story. Per Lt. Wolf's surgeon, the injury to his lower back will never get better - an anticipated 1-1/2 hour surgery, lasted 6 hours. He cannot feel his left foot and is still receiving back injections for the pain. This injury has affected relationships with his immediate family (wife and daughter). He stated he thought about pursuing a nursing career, but cannot meet the physical requirements.

Attorney Flaherty posed the following questions to Lt. Wolf:

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|---|---------------------------|
| Question: Currently married? | Answer: Yes |
| Question: Children? | Answer: 1 daughter, age 5 |
| Question: Family Insurance coverage with the FFPD? | Answer: Yes |
| Question: Do you currently have any other health insurance? | Answer: No |
| Question: Does your wife have any other health insurance? | Answer: No |
| Question: Wife work outside the house? | Answer: No |
| Question: Do you have a recollection of the event? | Answer: Yes, sir |
| Question: What did you do when you were initially injured? | |
| Answer: Lt. Wolf stated that, initially, he thought it was a strain or muscle pull. As the day went on, he took medication for pain. Next morning, still had pain. Two and one-half to three (2-1/2 to 3) days later, he noticed he was losing the feeling in his leg and foot. Went to a Chiropractor and an "MRI" was ordered. Advised BC Paul Kelch, by phone, the injury was more than a muscle strain. | |
| Question: Who was responsible for drawing up the training incident that day? | |
| Answer: Lt. Wolf said he was responsible for drawing it up. He explained that a lot of new firefighters were recently hired and in addition to the Fire Academy training, each Fire District also trains in accordance with their respective strategies, the training was being done by the Officers. | |
| Question: Have you done this type of training before? | |
| Answer: Numerous times. Lt. Wolf explained he was also involved in the development and "spec out" of the Burn Tower. | |
| Question: Did you preplan with the "rookie" firefighter as to how things were going to go? | |
| Answer: Yes, sir. | |
| Question: Was it an oral or written plan? | |
| Answer: It was an oral plan as to what we were going to do. We had been through "table top" exercises prior to this. With the Burn Tower located at Station 3, it is Standard Operating Procedure to have that Station's crew "standing by" when a "live" fire training exercise takes place. | |
| Question: What takes place at a "table top" exercise? | |
| Answer: Scenarios are laid out and the "what ifs" are addressed. | |
| Question: How many Companies participated on that drill? | |
| Answer: Only Lt. Wolf's company - 3 employees (an Engineer, probationary Firefighter Eric Berge and myself, as the Lieutenant). | |
| Question: Did you give Firefighter Berge the "lay of the land", as to where obstacles would be placed? | |
| Answer: Yes, the walk-through was done before the bale of hay was lit on fire. Many walk-through "dry-runs" (when no smoke or fire is used) were done on numerous occasions prior to this training exercise with "live" fire. | |
| Question: Please explain the term an "ear of hose"? | |
| Answer: Those are loops of hose that makes taking more hose off the rig faster and easier. | |
| Question: Other than the fact you (Lt. Wolf) got hurt, was this a "routine training" session? | |
| Answer: Yes. Lt. Wolf did not go the 3rd floor - the Engineer and Firefighter Berge did. | |

Attorney Flaherty asked for any questions from the Board of Trustees.

NEW BUSINESS: [Continued]

Trustee Daniel Rossi's question: Did you feel the really bad pain on the second "pop"?

Answer: Lt. Wolf explained the first "pop" was a burning sensation and the second "pop" caused him to fall down to his knees. He stated Firefighter Berge asked for more hose (about 15-20 feet more) and the 2-1/2" hose was stuck on the corner in the Burn Tower. He reached down, picked it up and pushed it forward and that is when I felt the second "pop". I fell to my knees - it took my breath away. I had my Engineer finish up with Firefighter Berge and I reported the incident a few days later.

Trustee Robert Jacob's question: With the new rules, what is considered the "age of majority" now?

Answer: Attorney Flaherty stated the Statute says, reach the age of 25, so long as the student remains dependent or in college. If not, the "age of majority" is 18.

Attorney Flaherty posed the following questions to Lt. Wolf:

Question: When providing additional hose to Firefighter Berge, how heavy was the 2-1/2 inch "charged" hose?

Answer: Lt. Wolf "guesstimated" the hose about 150 lbs. of force, excluding the gear he was wearing.

Question: When you picked up the hose, how many steps taken before you felt the pain?

Answer: I felt the pain when I picked up the hose and pushed forward -- no steps were taken.

Question: How far were you from the fire when you picked up the hose and pushed it?

Answer: About 15-20 feet.

After Attorney Manzella referenced Section 10, Subsection B (a Firefighter's response to what is reasonably believed to be an emergency), he directed the following questions to Lt. Wolf:

Question: Did you need approval to do the training exercise and to leave the station you were at to go do the exercise that day? And from whom?

Answer: My Battalion Chief Paul Kelch gave me permission.

Question: Why was a crew "standing by" at the Burn Tower - for what purpose?

Answer: In case of an emergency, a back-up crew "stands by" anytime a "live" fire is used in exercises.

Attorney Manzella confirmed the back-up crew acts in the same manner, as if it were a "real" fire.

Attorney Manzella also confirmed with Lt. Wolf that while in the Burn Tower, he was wearing his air pack, his gear and had a "charged" hose, just as if he was in a "real" fire.

Trustee Robert Jacobs posed another question to Lt. Wolf:

Question: Where was the Station 3 crew located while you were advancing the hose line?

Answer: They were next to Engine 5 and "geared up". I don't believe they had a "charged" hose line because it was a fairly routine training exercise. They were on the ready if needed.

Trustee Robert Jacobs noted that the presence of the Station 3 crew at the training exercise was not mention at the Pension Hearing.

Lt. Wolf stated the following:

"At the time of this training, I was in charge of the "Flashover", which is a part of that training tower (the Flashover Simulator). It is possibly the most aggressive "live" fire training exercise you can do, without being in an actual fire structure. I was in charge of the "Flashover Program", along with the support of Asst. Chief Wilson and, at the time, Training Officer, Lt. Hamm. I coordinated many trainings through that tower for the FFPD and other Departments, and helped design that tower. I am also very knowledgeable about the tower and with the NFPA Guidelines that are required to do "live" fire training.

The question and answer portion of the meeting ended.

POSSIBLE CLOSED SESSION PER STATUTE 5ILCS120/2C FOR THE PURPOSE OF DISCUSSING LITIGATION, COLLECTIVE BARGAINING, REAL ESTATE AND PERSONNEL:

1. Compensation of Specific Employees of the District (5 ILCS 2(c)(1))

At 10:52 A.M., a **Motion** was made by Trustee Daniel Rossi, seconded by Trustee Donald Lorenz that the Board meet in Closed Session for the deliberation of the request from Lt. Wolf. President Jacobs called for a roll call vote: upon the roll being called, the following Trustees voted aye: William F. Hoffmeister, Robert Jacobs, Michael Kavanagh, Donald Lorenz and Daniel Rossi. All in favor. Motion carried.

At 11:53 A.M., a **Motion** was made by Trustee William F. Hoffmeister, seconded by Trustee Daniel Rossi to reconvene the Special Board Meeting. President Jacobs called for a roll call vote: upon the roll being called, the following Trustees voted aye: William F. Hoffmeister, Robert Jacobs, Michael Kavanagh, Donald Lorenz and Daniel Rossi. All in favor. Motion carried.

POSSIBLE ACTION TAKEN FROM CLOSED SESSION:

1. Possible Action on Application for PSEBA Benefits

At 12:05 P.M., Attorney Flaherty stated that as a result of the Closed Session, no action was taken.

The Board asked Attorney Flaherty to craft a Motion to deny Lt. Wolf Health Insurance Benefits under the Public Safety Employee Benefits Act.

A **Motion** was made by Trustee William F. Hoffmeister, seconded by Trustee Donald Lorenz to support the Motion Attorney Flaherty presented. President Jacobs called for a roll call vote: upon the roll being called, the following Trustees voted aye: William F. Hoffmeister, Robert Jacobs, Donald Lorenz and Daniel Rossi. Trustee Michael Kavanagh voted nay. Motion carried.

Pursuant to the Board's direction, Attorney Flaherty will prepare for approval, at the next Regular Board Meeting in February, a written document that would summarize the "findings" and rationale for the decision voted on today.

ADJOURNMENT/RECESS:

At 12:06 P.M., a **Motion** was made by Trustee Donald Lorenz, seconded by Trustee William F. Hoffmeister that this meeting be adjourned. President Jacobs called for a voice vote. All in favor. Motion carried.

Michelle Selvaggio, Recording Secretary

Secretary, Board of Trustees

Transcription by: Carolyn J. Williams, Administrative Receptionist