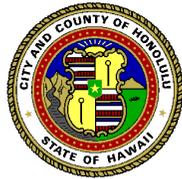


HONOLULU FIRE COMMISSION
CITY AND COUNTY OF HONOLULU

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CHARLOTTE NEKOTA

WILLIAM HONG

Minutes of Regular Public Meeting
Honolulu Fire Department Headquarters
Honolulu Fire Department Auditorium
Wednesday, May 30, 2018

CALL TO ORDER: Chair Wataru called the regular meeting to order at 10:06 a.m.

MEMBERS PRESENT: James Wataru, Dr. Joseph Young, Charlotte Nekota, Stefanie Lee, and William Hong.

MEMBERS EXCUSED: Max Hannemann.

IN ATTENDANCE: Fire Chief Manuel Neves (HFD), Deputy Fire Chief Lionel Camara Jr. (HFD), Assistant Fire Chief Scott Lawton (HFD), Assistant Fire Chief Ron Rico (HFD), Chief Socrates Bratakos (HFD), Assistant Fire Chief Nathan Ramos (HFD), Battalion Chief Jeff Hooker (HFD), Battalion Chief Wayne Masuda (HFD), Battalion Chief Jason Samara (HFD), Battalion Chief Bryan Soares (HFD), Battalion Chief David Morgan (HFD), Battalion Chief Joseph Kostiha (HFD), Battalion Chief Robert Thurston, Battalion Chief Howard Naone (HFD), Robert Lee (HFFA), Andy Fukuda (HFFA), Mike Kaneshiro (HFFA), Bill Thomock (HFFA), Jolyn Prieto (HFFA), Daisy Canile-Miyashiro (HFFA), Duane Pang (Corporation Counsel), Brian Ancheta (Corporation Counsel) and Nadine Murata.

II. PUBLIC TESTIMONY:

Chair Wataru asked if there was anyone from the public who wished to give public testimony. Mr. Lee of the Hawaii Fire Fighters Association (HFFA) and Mr. Aaron Lenchanko, (HFFA) introduced themselves and highlighted concerned issues of concern. Mr. Lee informed the Commission it's been almost a year since HFFA has requested the Marco Polo apartment after action report from HFD. Mr. Lee mentioned that numerous requests have been made with no response.

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Mr. Lee mentioned a letter written by one of its members that was submitted through interdepartmental mail to the Fire Chief and Deputy Chief back in November 2017, regarding the Marco Polo incident and copies of the letter was passed out by Mr. Lenchanko.

Mr. Lee went over the letter where it recounts the incident and explained its submission to acknowledge the fire fighters heroism and addressed the lack of executive leadership within the department.

Mr. Lee went over a correspondence dated May 30, 2018, to the Commission regarding Honolulu Fire Department Communication and Correspondence. Mr. Lee highlighted the amount of certified mail that HFFA receives from the department and questioned why it's certified as HFFA does not receive certified mail from any other departments.

Mr. Lee also went over a letter dated May 25, 2018, addressed to the Commission regarding monthly meetings. Mr. Lee summarized the letter and indicated that monthly meetings are ineffective as both departments cannot see eye-to-eye and moving forward, HFFA will no longer be attending monthly meetings with HFD.

Mr. Lee noted Commissioner Nekota requested that both Fire Chief Neves and HFFA should get together and try to resolve the Captains promotions, but Mr. Lee indicated that Fire Chief Neves keeps referring to monthly meetings.

Mr. Lee gave the Commission an update on the Hawaii Labor Relations Board (HLRB) Minute Order 3293 and indicated that this has been on going since the hire of Fire Chief Neves. Mr. Lee mentioned that HLRB ruled in favor of HFFA and read a script from the order, second to the last page, last paragraph.

Mr. Lee also went over Employer Counter Proposal #1 and highlighted a statement "and shall include the specific dates, times and places of each meeting and may be conducted at fire stations and department work sites, if operations permit". Mr. Lee expressed his frustration that Fire Chief Neves asks for specific dates, times, and place of meetings 5 days prior to meeting with its members. Mr. Lee indicated that 5 days notices to a meeting cannot be given as things come up.

Mr. Lee mentioned that HFFA gives the department notice for the entire year and follow ups with the station/Fire Captains upon their arrival.

Mr. Lee noted that this has been a non issue with past Fire Chiefs and that every public union sector can walk into a work site and meet with its members.

Mr. Lee went over the timeline of the Captains grievance letter dated May 30, 2018, with the Commission.

Mr. Lee gave a brief summary of what had taken place in Step 1, and Step 2 grievance with the Commission and mentioned that to rectify the situation, all HFD has to do is use parts of the old list and new list.

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Mr. Lee informed the Commission that the old list had expire March 5, 2018, and a new eligible list was created on March 6, 2018. Mr. Lee questioned the quickness in creating the new list.

Mr. Lee noted that a Settlement Agreement was reached on April 20, 2018, between HFFA and DHR where the old list and new list will be used.

Mr. Lee questioned why HFD was still conducting Captains interviews when a settlement agreement was reached. Mr. Lee mentioned because of these interviews it has caused confusion within the department.

Mr. Lee stated that Fire Chief Neves feels that the settlement is not proper and has forward it to Corporation Counsel.

Commissioner Hannemann asked how steps were in the grievance.

Mr. Lee answered the first step is with the HFD, second with DHR, and third file arbitration.

Commissioner Hannemann asked when it goes to DHR, if they have ever settled a grievance before. Mr. Lee answered, "Yes".

Commissioner Hannemann asked if HFD has complied. Mr. Lee mentioned in the past they did and noted if there's a settlement agreement everything stops.

Chair Wataru asked Mr. Lee if he has an estimated cost of HFFA's legal cost. Mr. Lee answered that he can forward it to the Commission.

Mr. Lee mentioned a member petition was drafted and signed by approximately 600 members requesting the Commission to get involved to restore the relationship between HFFA and HFD.

Mr. Lee mentioned that information regarding members who signed can be blacked out to protect their privacy and asked the Commission how they would like to receive the petition.

Chair Wataru conferred with Counsel Ancheta and indicated that the Commission would like to have it in full form and hold off until further notice.

Chair Wataru asked if there was anyone in the public who had questions for Mr. Lee.

Commissioner Lee asked Mr. Lee if he was still obtaining signatures for the petition. Mr. Lee answered, "No".

Commissioner Lee asked how many signatures. Mr. Lee answered, "593".

Chair Wataru asked if that included active duty and retirees. Mr. Lee noted, 557 active duty and 36 retirees.

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Commissioner Hannemann asked Mr. Lee when the petition is sent over, will the Commission be able to see comments. Mr. Lee answered, "Yes", and indicated that a lot of its members did not want it to go to the department as they are afraid of retaliation.

Mr. Lenchanko stated that members are fearful due to promotion.

Commissioner Lee asked Mr. Lee for clarification purposes if the union will protect its members so the Fire Chief wouldn't see the petition. Mr. Lee answered, "Yes".

Mr. Lee mentioned an incident that took place within the department and mentioned that every member knows what took place and that's one of the reasons why everyone in the department is cautious on how things are said and done during promotions.

Chair Wataru asked Mr. Lee if he had anything more to add and asked if there was anyone else from the public who would like to give public testimony. There was none.

Fire Chief Neves asked Chair Wataru if the department may comment on what was shared. Chair Wataru welcomed comments from the department.

Fire Chief Neves referred to the letter regarding the Marco Polo incident. Fire Chief Neves mentioned that the department has a process called "accommodation" ceremony and gave a detail summary of how it works and mentioned that there has been no ceremony after the Marco Polo incident.

Fire Chief Neves noted that the department in the past has conducted two ceremonies a year but now ceremonies are conducted once a year. Fire Chief Neves mentioned that he does not know where this fire fighter is in the process, but if it's been approved that personnel will show up on accommodation.

Fire Chief Neves mentioned the comment made by Mr. Lee regarding lack of leadership at the Marco Polo fire incident. Fire Chief Neves indicated that most of the fires are conducted by Battalion Chiefs and if it's a large fire a second Battalion Chief will assist. Fire Chief Neves mentioned that 9 chief officers were present of which 4 were executive chiefs.

Fire Chief Neves addressed certified mail to the Commission and mentioned that in the past, letters of sensitive nature have been lost and HFD has been advised by its Counsel and DHR to send all correspondence to HFFA via certified mail.

Fire Chief Neves mentioned that back in 2013, there has been face to face meetings with HFFA and every meeting has been documented per Corporation Counsel. Fire Chief Neves mentioned that these meetings are about relationships and each time the department reaches out it is documented and declined by HFFA.

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Fire Chief Neves proposed having 2 Commissioners present at their monthly meeting and mentioned that HFFA declined and quoted that “The Fire Commission does not have the authority or ability to interfere with these meetings”.

Fire Chief Neves also stated that HFFA has quoted Section 6-106, Powers, Duties, and Functions of the Fire Commission and questions why is HFFA asking the Fire Commission to get involved with the petition.

Fire Chief Neves mentioned a suggestion made by Commissioner Nekota regarding giving Mr. Lee a call and noted that Commissioner Hong had voluntarily volunteered to get involved to see how he could help mend the relationship.

Fire Chief Neves went over the HLRB and stated that they are 2 complaints. The first complaint was in regards to the 5 day notice and mentioned that HFD was favored as HFFA did not give their 5 days notice. The second complaint was in regards to the after 5 p.m. visits.

Fire Chief Neves mentioned legal fees are currently being challenged due to Mr. Lee speaking with the Chairman of the (Ethics Commission (?)) which might influence its decision.

Fire Chief Neves stated that negotiation(s) should not be discussed in public meetings as they're ongoing issues.

Fire Chief Neves spoke of Captains promotions and went over with the Commission on how promotions are conducted. Fire Chief Neves explained how vacancies are occurring as well as promotions for Battalion Chiefs.

Fire Chief Neves explained Step 1 and Step 2 grievance and indicated that due to people getting involved, DHR decided on a settlement instead of a ruling.

Commissioner Hannemann asked Fire Chief Neves how he views the settlement with DHR. Fire Chief Neves stated that it's confusing and requested for legal advice as promotion should be based on merit, ability and work performance.

Fire Chief Neves indicated that a conference call was made to Mr. Lee regarding Captains interview and he was in agreement to what was being discuss.

Fire Chief Neves expressed his frustration due to an email received by Mr. Lee mentioning to stop Captains interviews and explained that everyone was prepared for the interview. Panel members were ready, and interviewees had prepared for weeks.

Fire Chief Neves updated the Commission with the merging of the old list and the new list and indicated his reservations.

Commissioner Nekota expressed concern for the people on the old list while a new list is being created.

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Fire Chief Neves mentioned that everything conducted within the department is done with fairness and explained that it wouldn't be fair if someone who doesn't do well on the interview get promoted ahead of you.

Both Commissioner Hannemann and Nekota mentioned they were having a hard time comprehending the procedure.

Commissioner Hannemann addressed Step 1 and Step 2 and asked if DHR has the authority to come to a settlement agreement and if it's binding to both parties. Fire Chief Neves answered, "Yes".

Commissioner Hannemann explained that the settlement agreement indicates to take 21 from the old list and the remaining from the new list and noted that HFFA has agreed to drop their grievance.

Commissioner Hannemann asked Fire Chief Neves where the difficulty on this settlement is.

Chief Camara mentioned that the department keeps the interview process separate.

Commissioner Nekota asked why separate.

Chief Camara mentioned that when you merge the list you might not get your 19 and it's based on an interview score.

Commissioner Nekota asked if the list is merged prior to the interview. Chief Camara said, "No".

Commissioner Nekota asked Chief Camara to be on the list one needs to take the test. Chief Camara answered, "Yes".

For clarification purposes, Commissioner Nekota indicated that all those people on the list have been interviewed and scored upon that interview. Chief Camara explained that the people who are on the old list and new list were interviewed on separate occasions and when the list get merged everyone falls differently on the master list.

Commissioner Hannemann questioned the merging and read a script where it indicates that HFD shall interview and select 19 individuals from the 40 names of the 2016 list and the remaining vacancies shall be filled from the new list.

Fire Chief Neves noted when the department started asking questions that's when the idea of merging of the list came up.

Vice Chair Lee asked Fire Chief Neves if he preferred this. Fire Chief Neves indicated that the department will implement whatever decision is made and it shouldn't skip over anybody who did better.

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Commissioner Hannemann mentioned that's where the confusion is and needs clarification.

Mr. Lee stepped in and mentioned that the cause of the problem was that the department kept moving on and the goal was to have the old list and the new list and to interview the old list first then the new list.

Mr. Lee mentioned that when they were putting together the agreement the department conducted interviews on the weekend and that's where the confusion starts because the old list and the new list gets mixed up.

Mr. Lee mentioned that the agreement was to select 19 individuals from the old list and the remaining from the new list.

Mr. Lee explained that you would take the top 19 individuals from the old list and promote and then from the new list.

Commissioner Nekota agreed.

Chair Wataru mentioned that the confusion is where the merging is coming from and asked if it came from DHR.

Commissioner Nekota said that it came from HFD. Fire Chief Neves indicated that it came from Mr. Lee and DHR.

Mr. Lee mentioned that merging the list was to make it comfortable because there was more than one interview conducted.

Fire Chief Neves explained Step 2 and informed the Commission that HFD wasn't aware that DHR was having discussions with HFFA in regards to a settlement agreement.

Fire Chief Neves mentioned that DHR was fully aware that HFD was conducting interviews when it had asked for names off of the new list.

Fire Chief Neves mentioned that they learned of an unannounced settlement when a copy was received the following Monday.

Fire Chief Neves mentioned that during the meeting Ms. Kubo stepped out and spoke with Mr. Lee and he thought that everything was okay.

Chair Wataru asked when the old list expired. Fire Chief Neves explained that it would have been extended until the new results came out.

Commissioner Hannemann mentioned that promotion is a sensitive issue and asked what the next step is.

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Fire Chief Neves expressed that promotion should be based on merit, ability, and work performance and not be bypass because of other influences.

Commissioner Hannemann mentioned if discussions are being conducted as to how the two list will be used. Fire Chief Neves indicated that the department is waiting for instructions from DHR.

Commissioner Nekota asked if anyone has been promoted. Fire Chief Neves mentioned that no one has been promoted.

Chair Wataru asked about Corporation Counsel. Fire Chief Neves mentioned that they haven't given the department any opinion.

Fire Chief Neves mentioned the petition and indicated that the department allowed HFFA to visit the station and doesn't understand where retaliation comes in.

Chief Camara mentioned that he welcomes anyone who can help with the department's relationship with the union.

Commissioner Nekota noted having the union visit the stations would improve their relationship.

Chief Rico indicated that the union are allowed to go to the stations, and that's how they got the signatures for the petition.

Commissioner Nekota mentioned that the department has made it hard for the union to visit stations. Chief Rico answered, "Not anymore".

Commissioner Nekota asked if the union are able to visit stations. Chief Rico answered, "Yes, and mentioned that there's no problem with the union accessing stations".

Chief Bratakos stated that he welcomes the petition as he doesn't like the disagreements and mentioned that he writes numerous letters for the Chief to personnel asking them to voice any concerns.

Chief Bratakos indicated that it can be exhausting because labor and management has to talk and expressed how difficult it is when the department tries to explain things and there are things that are not appreciated when things are done.

Commissioner Hannemann welcomed the department to share things with the Commission.

For clarification purposes, Chair Wataru asked Fire Chief Neves if the union can visit stations anytime they want. Fire Chief Neves indicated that they are still waiting for HLRB's decision.

Chief Rico stated that access to stations are there for the union.

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Commissioner Young asked why the promotion was not done earlier. Fire Chief Neves mentioned that 33 out of the 39 vacancies occurred in November/December and in January the department started the process with the Battalion Chief working down on the ranks.

Commissioner Young asked if there was a time limit. Fire Chief Neves answered, "No, it's being consistent with the past".

Chief Camara mentioned that with the stall of the Captain's promotion the Fire Fighter III's promotion will soon be coming up.

Commissioner Nekota asked if the department is waiting for the settlement. Fire Chief Neves answered, "Yes" and indicated that it's at the DHR level and not the City.

Commissioner Nekota restated that the department is waiting for DHR so HFD can promote those personnel.

Fire Chief Neves answered, "Yes".

Commissioner Nekota asked how long will it take.

Chief Camara mentioned that DHR are working on the last few names.

Mr. Lee mentioned the holdup is when the department went to Corporation Counsel.

Commissioner Nekota asked what DHR has to do with the promotion if the department is ready to promote Fire Fighter III's to Captains.

Fire Chief Neves stated it's because of the settlement and who gets promoted.

Commissioner Nekota mentioned if there was no settlement and a list of people who are supposed to be promoted are sent to DHR are they automatically promoted.

Fire Chief Neves indicated that a background check is conducted before being promoted.

Commissioner Nekota restated her question to Fire Chief Neves and asked him why he can't just agree to the settlement that HFFA and DHR came up with.

Chief Rico indicated that there were two interviews that were conducted and the problem is who from the two interviews are going to be promoted and added that request for names are being asked and the department doesn't give out names.

Chief Rico mentioned that the department is trying to abide by what DHR is informing the department but indicated that there is a lot of confusion.

Chief Rico indicated that his confusion is why DHR is asking for names and not just go by the numbers that the department gives them.

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Chief Rico expressed his frustration that background check is supposed to be conducted before promotion.

Chair Wataru mentioned maybe the names are both from the old and new list.

Chief Rico mentioned that the department figured out who is on the old and new list.

Chief Bratakos mentioned that there are names that should be kept confidential and names that should not go out of city departments.

Fire Chief Neves explained the reason for the department going to Corporation Counsel and that the department believes in fairness.

Fire Chief Neves explained that Corporation Counsel is reviewing the settlement agreement as to how the department is going to promote to prevent a future lawsuit.

Fire Chief Neves stated that the people who are being bypassed might have a case with the City.

Chair Wataru stated that all of this should have taken place before the settlement was agreed upon with DHR. Fire Chief Neves answered, "Yes".

Mr. Lee mentioned that HFFA had asked for the names as the settlement indicates that the department takes 19 names from the old list and it shouldn't matter if it came from the old list or the new list.

Mr. Lee noted that HFD didn't win half of the HLRB complaint as mentioned by Fire Chief Neves. Mr. Lee mentioned the first step regarding station visitation was not ruled by HLRB and file grievance.

Mr. Lee mentioned to repair the relationship and conduct future monthly meetings, HFD needs to fix the Captain promotions.

Commissioner Hannemann made a "suggestion" to both Fire Chief Neves and HFFA that Fire Chief Neves will assign one of his Chiefs to meet with one of the union representative and meet with DHR to come to a solution and move forward.

Commissioner Hannemann expressed his concern regarding the 39 individuals that are supposed to be promoted.

Chair Wataru stated that it's the recommendation that the Commission does not interfere with operation.

III. EXECUTIVE SESSION- Annual Evaluation of the Fire Chief.

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Commissioner Lee moved and Commissioner Hannemann seconded that the Commission go into executive session regarding the evaluation of the Fire Chief “to consider the hire, evaluation, dismissal, or discipline of an officer or employer or employee where consideration of matters affecting privacy will be involved” [HRS Sec. 92-5(a)(2)], and to “consult with the board’s attorney on questions and issues pertaining to the board’s powers, duties, privileges, immunities, and liabilities” with regard to these matters [HRS Sec. 92-5(a)(4)]. The Commission went into Executive Session at 11:39 a.m. and the regular public meeting reconvened at 12:21 p.m.

ANNOUNCEMENT: The next Commission meeting will be held on June 13, 2018, at 12 p.m. in the Honolulu Fire Department Auditorium.

ADJOURNMENT: There being no other business the meeting was adjourned at 12:21 p.m.

Respectfully submitted by: Nadine Murata, Secretary.

APPROVED:

JAMES WATARU, Chair

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