

**BOARD OF PUBLIC WORKS AND SAFETY
MINUTES OF MAY 30, 2024**

The regularly scheduled meeting of the Board of Public Works and Safety convened at 9:02 a.m. on Thursday, May 3, 2024, in the Council Chambers of Hammond City Hall. A roll call was taken: Mr. Long – present; Ms. Greenwell – present; Mr. Kalina – present.

Motion by Ms. Greenwell to approve the Minutes of the meeting of May 23, 2024; seconded by Mr. Kalina. AYES ALL. Motion carried.

Under Correspondence, correspondence received from Jeffery Smith, Fire Chief requesting the approval of the resignation of EMT-1 David Bultema effective the close of business on April 21, 2024; retirement of Fire Chief, Jeffery C. Smith who has served the citizens of Hammond more than 32 years effective June 1, 2024; and the promotion of A/C Drillmaster, David Weisz to be promoted to the rank of Deputy Chief and the promotion of Deputy Chief Bernard Grisolia to be promoted to the rank of Fire Chief, both effective June 1, 2024. Mr. Long thanks Fire Chief Jeffery Smith for his service and congratulates Deputy Fire Chief Grisolia. Motion by Ms. Greenwell to approve; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-283)

Correspondence received from Chris Campbell, Director of IT Department requesting the approval of the Participation Agreement with AT&T Enterprises, LLC for a sim card. Motion by Ms. Greenwell to approve; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-284)

Correspondence received from the Controller's Office requesting the approval of the renewal of amusement device license for U.F.O. Bar & Grill. Motion by Ms. Greenwell to approve; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-285)

Correspondence received from resident Sharhonda Burnette requesting to block off 6720 Marshall Ave. on Friday June 7, 2024 from 1:30 p.m. to 8:30 p.m. for a graduation party. Motion by Ms. Greenwell to approve; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-286)

Correspondence received from Dean Button requesting advertising dates of June 6, 2024 and June 13, 2024 with a bid opening of June 27, 2024 for the 165th Street and State Line Road Intersection Improvements project submitted for approval. Motion by Ms. Greenwell to approve; seconded by Mr. Kalina. AYES ALL. Motion carried. (Res. No. 24-4169) (Ins. No. 24-287)

Correspondence received from Tamara Bunch, 1106 Drackert St. to block the corner of Drackert St. and Howard Ave. on June 8, 2024 from 3:00 p.m. to 8:00 p.m. for a birthday party with signature attached. Motion by Ms. Greenwell to approve; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-288)

Under New Business, Mr. Smith states the listed demolitions all fall under the Unsafe Building Act, service has been issued via certified, regular mail, publication and posting on the property.

7817 Bertram (Garage) – Mr. Smith states address should be 7817 Delmar and requests this to be dismissed. Motion by Ms. Greenwell to remove and set for 7817 Delmar; seconded by Mr. Kalina. AYES ALL. Motion carried.

5742-52 Calumet (Garage/Rear Structure) - Mr. Smith states this is owned by Chester Borsuk via Trust # 6138 and represented by John Craig and has asked for a new date. Mr. Borsuk is present and wants to continue without advise. Mr. Long clarified that Mr. Borsuk understands he has the right to reset with his attorney. Mr. Borsuk wants to proceed. Mr. Smith states this is a stand-alone storage/garage type structure that has been graffiti. Mr. Borsuk states he is going to repair and clean it up and this is the first time he knew about it. Mr. Shultz has not spoken with him and has the graffiti removed and would like it to be demolished. Mr. Shultz states it is a useable building for storage. Mr. Smith states the city would like to enter the order of demolition, and will allow it to stay until Mr. Borsuk can meet with the city to get a plan to rehab. Mr. Borsuk understands. Motion by Ms. Greenwell to enter demo order; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-289)

6411 Harrison – Mr. Smith states this is a single-family home, listed as owned by Maria, Jesus, David, Daniel and Jimmy Garcia at 6646 Jackson street in Hammond. The property has been boarded up and listed as uninhabitable has of April 3rd. The property appears to be in significant disrepair including open holes in the front exterior walls, gutters failing, abandoned vehicles on the property and peeling paint. The city's position is they would like the demo order affirmed. Mr. Jimmy Alias states the house is under his brother's name, Jesse Garcia, who lives in Arizona. Mr. Garcia is on his way to Indiana to start the process of selling this home. Mr. Alias did receive notice. Mr. Smith advises him to notify his brother of the demolition order if they are selling. Mr. Smith states he received a call on Tuesday from Carmine Garcia requesting an extension to next week due to them travelling. Mr. Smith is fine with this being set next week. Motion by Ms. Greenwell to set for June 6, 2024; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-289)

5125-27 Hohman (restart of demo that expired) - Mr. Smith states the title work was not provided in time and will set for another date. No action.

54 Mason (REAR) - Mr. Smith provides updated photos. Owner listed has Brenda Bergin and has a mortgage. The inspection report notes in general disrepair, fence collapsed, doors not provided where required and exterior windows not fitted with windows. Photos show the rear of the structure with gaping holes and improperly fitting doors, peeling paint and a collapsed fence. Mr. Smith requests the order be affirmed for the rear property. Scott Hale, Truist Bank has a secured mortgage on property. Property is vacant. Motion by Ms. Greenwell to affirm the order; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-289)

1152 Michigan - Mr. Smith states the owner is listed as Raymond Siegele of Yorba Linda, CA. with a mortgage by JP Morgan Chase Bank. The property is described as uninhabitable. The property is currently vacant and due to the condition of the structure should be demolished. Mr. Steve Meeker represents Chase Bank and states they have cleaned up the property, it is under contract with a local investor, Preferred Homes, and requests a three-week continuance. Motion by Ms. Greenwell to set for June 20, 2024; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-289)

1021 Moss – Mr. Smith states the owner listed as Lou Loomis, LLC which obtained the property in late 2023 via tax deed. Jeffrey Piposar is listed as the attorney. Property shows significant issues including being boarded up, collapsed siding, windows on the second floor boarded up, and an unsafe porch. Motion by Ms. Greenwell to affirm the order; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-289)

4625 Sheffield – Mr. Smith states owner listed as Minerva Kincaid at this address. The inspection report shows a house fire of September 24, 2023 with the owner deceased and family living in the property even though there is significant and apparent fire damage with multiple structural issues, abandoned and fully boarded up. No one appeared. Motion by Ms. Greenwell to affirm the order; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-289)

2104 Sherman – Mr. Smith states owner listed as Stephanie Sotelo of Dyer, IN the property shows garage dilapidated house has windows missing and is a magnet for graffiti. The fence collapsed. No one appeared. Motion by Ms. Greenwell to affirm the order; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-289)

918 Willow – Mr. Smith states the owner listed as Cory Yzaguirre of 142nd Street in Hammond. The rear basement window wall has collapsed. Water has been shut off for non-payment, gas meter has been removed and shut off at the main, the owner is apparently in Lake County Jail. The back yard has abandoned vehicles in it. There have been indications that people have tried to break into the structure. No one appeared. Motion by Ms. Greenwell to affirm the order; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-289)

Under Old Business, Agreement to Rehabilitate property at 7601 Golfway Court submitted for approval. Motion by Ms. Greenwell to approve and set for status on September 5, 2024; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-290)

Right of Way Permits (3) received from Engineering submitted for approval. Motion by Ms. Greenwell to approve; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-291)

Request for Late Rental Registration Hearings submitted for approval. Motion by Ms. Greenwell to set for June 20, 2024; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-292)

Request for Late Business License Hearing submitted for approval. Motion by Ms. Greenwell to set for June 13, 2024; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-293)

Garage Sale Permits submitted for approval. Motion by Ms. Greenwell to approve; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-294)

Under Old Business, Status - 2314 Indianapolis Blvd. – Mr. Smith states Mr. Lewter is out and requests a status date. Motion by Ms. Greenwell to set for June 27, 2024; seconded by Mr. Kalina. AYES ALL. Motion carried.

Status – 607 State St. Mr. Smith states they are in a good spot. Mr. Paul Harris states they have plans, permits and bonds. Motion by Ms. Greenwell to set for August 1, 2024; seconded by Mr. Kalina. AYES ALL. Motion carried.

Under Rental Registration Hearing, 4105 Wabash (3) – Daughter present. Mr. Farrell requests a Homestead form be completed. Motion by Ms. Greenwell to waive the late fee; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-295)

718 Willow Ct. - Owner present. Mr. Farrell requests a Homestead form and affidavit to be completed. Motion by Ms. Greenwell to waive the late fee; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-295)

4325 Baltimore – Owner present. Motion by Ms. Greenwell to waive the late fee; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-295)

1607 Calumet Ave. (3) – Owner present. Motion by Ms. Greenwell to waive the late fee; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-295)

4319 Towle (3) – No action.

7619 Birch, 20 Waltham, 1246 175th, 1584 178th – Owner present. Motion by Ms. Greenwell to waive the late fee; seconded by Mr. Kalina. AYES ALL. Motion carried. (Ins. No. 24-295)

Under Meeting Open to Public, resident appeared regarding 51 Webb as to when garbage will be picked up. Mr. Smith acknowledges the demo process is moving forward, Inspections will post a 10 day notice today.

Under Grievance Hearing, Local 556 Union – Grievance Chair, Jeff Harterode agrees we are now on step 6 of Article 14 of the grievance procedure within the Collective Bargaining Agreement.

Jeff Harterode states Danny Misiak was promoted to Assistant Chief Inspector position rank on April 22, 2021. On April 3, 2024, it was recommended by Fire Chief Jeff Smith that Mr. Misiak be reassigned to the rank of private. The Union contends that he was improperly reassigned/demoted without cause. He was not granted due process as outlined in the contract as it pertains contractual obligation of any kind of investigation, any information, and notification. The matter was brought up to the Board preemptively before proper notification of any kind of disciplinary action. There is no record any kind of disciplinary action in Misiak's Hammond Fire Department Personnel records, only hiring, medical information and letters of accommodation. Grievance is presented on the grounds that his due process and rights were violated through the Collective Bargaining Agreement and State Law. A few resolutions were offered to the Fire Chief to either reinstate Misiak to position of assistant chief or change his rank to private, but to compensate at the rate of assistant chief. He shouldn't be demoted and/or reassigned with loss of pay without cause. The Board approved his reassignment without proper notification and the union is asking that the action be reversed. He requests that he either be put back as Assistant Chief Inspector or placed in the vacancy of Drill Master, but should be reinstated to the rank of Assistant Chief and moving forward that the Collective Bargaining Agreement is followed for all the members which is agreed to by the City, the Union and approved by the Board of Works.

Mr. Smith representing the City states he doesn't think Mr. Harterode presented the Board with the Grievance, and provides a copy. 1) due process argument but didn't think Mr. Harterode presented to the Board at this time nor at any other time any indication as what that due process harm was. They indicated there was failure to provide notification, failure to provide documents, however would note that the statutory process Mr. Misiak asked for has been complied with and met. Exhibit 1) – letter from Fire Chief Smith which reassigned and demoted Mr. Misiak to the rank of Private which was approved by the Board on April 4, 2024. Exhibit 2) – email sent on April 4, 2024 at 12:04 p.m. from misiakd@hammondfire.com to the Fire Chief, Deputy Fire Chief, Mr. Smith, Jeff Long and cc'd Michael Hull which requested within the statutory time period under Ind. Code 36-8-3-4 a request for hearing before the Board. Mr. Smith responded on April 8th indicating to Mr. Misiak that receipt for request for hearing was confirmed, advised that it would be set on or before May 4 pursuant to the Code and let him know written notice would be given within 14 days in advance to comply with the Indiana Code, asked if he would like to coordinate an agreed date to please contact Linda and also indicated we would intend to utilize the following testimony and evidence: Fire Chief Smith, Deputy Chief Grisolia, Wendy Adam, Lori Autry, Assistant Chief David Weisz, Phil Scheeringa, David Lee, Sharon Daniels, various Hammond Police Officers and witnesses that may be necessary to prove the charge against him of conduct unbecoming. Documents may include Facebook posts, police reports, criminal records, medical records, personnel files, photographs and other documents that may be required at the hearing to prove the charges against him. Exhibit 3 – Statutory notice of hearing sent out and hand delivered to Mr. Misiak set originally for April 25, 2024. Mr. Misiak

is currently represented by an attorney and have agreed that date continued to June 7, 2024. Mr. Smith concludes that procedures were followed in substantial conformity with what is required. Mr. Misiak was informed of the charge against him of conduct unbecoming.

Mr. Smith states 1) procedures were followed in substantial conformity with what is required. Mr. Misiak was informed of the charge against him of conduct unbecoming. Mr. Harterode has not presented any harm as a result of any minor inconsistencies with the procedure under Article 13 or 14 of the Collective Bargaining Agreement.

Deputy Fire Chief Bernard Grosolia sworn in and states he met with Danny Misiak in office with Sharon Daniels as a witness. Mr. Misiak was advised, he became angry and stormed out of office so he was not able to continue with anything additional. Mr. Harterode questions Chief Grosolia and states the meeting was April 3, 2024 and no notification was given to Mr. Misiak that he was under investigation or that he was going to be disciplined or give him an opportunity to have union representation prior to attending said meeting. Mr. Misiak was on a no-duty status.

Mr. Smith states the City's position is that at this point in the grievance procedure, which is step 6, the city has complied with the grievance procedure, complied with the statutory requirements that in grievance form Mr. Misiak states about the statutes not being followed, the statute has been followed that is why we will be here June 7th. He will have his day before the Board, assuming his attorney will be present, assume testimony from multiple witnesses, documentation will be put before the Board that will support the charge of conduct unbecoming. This satisfies the due process. If minor things weren't followed within the grievance procedure, there has been no showing of harm. Mr. Smith believes the city, administration and Fire Department stands with their original discipline which is to reassign and demote Mr. Misiak from Assistant Chief Drill Master to Private-P.

Mr. Harterode presents the Grievance, it does list all the articles and sub sections in the Collective Bargaining Agreement that he feels he was harmed with. Presents a printout of all different articles that are listed in the Collective Bargaining Agreement, which will back up his claim on how he was violated his due process. Mr. Misiak's hearing is set and he did request it but it was after the Board of Works already approved his demotion and reassignment. Through the CBA and state code, he is supposed to be provided notification of any kind of disciplinary action, have evidence presented, have the hearing prior to the Board of Works making a decision on whether there is going to be a reassignment or demotion. He did not have that opportunity, and that is why the grievance was filed, that is why they went through these steps to get to this actual hearing over the fact that he was demoted without cause. To date, Mr. Misiak does not have any kind of disciplinary action in his file or notification of proposed action. A morning meeting was called that required his attendance while he was on medical leave with PTSD, was told that he was going to be demoted due to conduct unbecoming but no notification, nothing in file and no paperwork anywhere other than the fact the Board already voted to reassign him. No mention of conduct unbecoming, no disciplinary action. This is where they feel like his process

was violated. Money has been taken away, State Code states any kind of notification Section 36-8-2.1-9. IC 36-8-3-4 and 36-8-10-11. There is a process that needs to be followed. Mr. Harterode states their contention is that everything was missed, his full process was violated, hearing was held, already demoted him to Private so he had no choice but to appeal the particular ruling on his own. Mr. Misiak's position is that he has already been harmed by the action thus prompting the grievance to be filed and union representation.

Mr. Smith states the action that was taken was action by the Chief that was then reported to the Board which led to the reassignment/demotion of Mr. Misiak was entered by the Board. Then the hearing procedure of that action is the hearing that is next week. Mr. Smith disagrees with the position that the union is taking regarding there should have been some hearing on the action. That is what is happening next week. 36-8-3-4. This is how you appeal.

Mr. Long states he believes that the union is saying the initial meeting with Bernie shouldn't have happened without 72-hour notice being given allowing Mr. Misiak to have union representation in attendance. Asks the union if this is an accurate statement.

Mr. Harterode states he goes off the Collective Bargaining Agreement and Rules and Regulations and they both have writing that state those are the requirements.

Mr. Smith states 36-8-2.1-9 says a public safety officer may not, except as provided in IC 36-8-3-4, dismissed, transferred, reassigned, subjected to a personal action that may result in a loss of pay or benefits or be subject to a disciplinary measure resulting in monetary loss unless the public safety is notified of the action and the reason for the action in advance of the effective date of the action. The reason is in the letter which is the April 4, conduct unbecoming and in advance of the effective date of the action.

Mr. Hull provides the summary the member was diagnosed with PTSD and while he was off being treated, he was demoted. You don't discipline someone when they are off with PTSD. The member was never made aware there was an investigation, wasn't afforded the right, the union was never notified of an investigation against him, the member's records were requested twice before they received them. There are no disciplinary actions in the members personnel file only accolades. This is odd to demote someone who has zero disciplinary actions. The actions that were taken were not even an option in the Collective Bargaining Agreement. There are steps to be followed: oral reprimand, written reprimand, suspension and termination. These are the options. We are going outside of that again. Firefighters are watching, police are probably watching this also and they are wondering if city can go against anything agreed upon in the CBA then what good is it. In the past few years, we have prided ourselves with doing things in the public, protecting the residents, protecting our members, protecting the city and we also call anyone out who does not abide by written policy. How to we go from zero to a hundred? This is not consistent. This action will jeopardize our ability to protect our member, but it also jeopardizes the city and the public by a lawsuit. There is an open vacancy for assistant chief,

Danny should be given the opportunity to be put back in that place and if he screws up, then you go through the correct procedure and do it the right way.

Mr. Smith clarifies Mr. Misiak was not demoted because of his PTSD, he was demoted for conduct unbecoming, in which the hearing will be held next week. There is a fundamental disagreement over how discipline has to be dilled out, if the conduct is such that it reaches termination. This is a demotion and reassignment which is at the Chief's discretion. Any harm regarding the process has not resulted in any due process harm because Mr. Misiak will get his day next week. We believe the process was followed and next week will be the next step in the statutory process.

Mr. Long states this concludes the grievance hearing and the Board will take this matter under advisement and issue a decision within a reasonable amount of time. Thank you. (Ins. No. 24-296)

There being no further business to come before the Board, motion by Ms. Greenwell to adjourn; seconded by Mr. Kalina. The regularly scheduled meeting adjourned at 10:20 a.m.

APPROVED:

BY:


Jeffery Long, President

ATTEST:


Linda Norville, Board Secretary