

## MINUTES OF THE SPECIAL BOARD OF DIRECTORS MEETING March 14, 2018

I would like to state that I, Grace Bianchi, was not in attendance for this meeting and the quality of the recording isn't understood in some areas. Since I was not there I cannot say for certain who is making a statement. If I cannot identify the speaker's voice I did not put a name to the statement.

The meeting was called to order by Vice President Michael Galliher at 20:09

**Board Members Present:** Jean Barton, Peter Buonome, Michael Galliher, William Green, Andy Ozmun, Matthew Polesel, Rob Shillington and Michael Trick. Excused Jamie DiPace, Joseph Kowalczyk and John Ryan.

**Others Present:** Andrew Bloom, Aaron Gelber, Matt Gugliotti, Tom Kline, Ramona Mansfield, Ken Sedlak, Lynn Sedlak and Robert Theriault.

Vice President Michael Galliher stated that in the Executive Session of the March Board meeting there was no decision made. 3 members of the Board called for a special meeting to come to a decision.

Vice President Galliher asked Katie Cormier to look at the last Board Meeting minutes for the motion that was made so that everyone would know what this meeting is about. He was told Peter Buonome's proposal was for Jean Barton to remain on medical leave until we determine if OSHA or any other regulatory agency requires an administrative staff member to take a fire department physical.

Vice President Galliher read AOG CM-1 – Special Board Meetings. The President may call a special meeting of the Board of Directors on twenty-four (24) hours' notice, and such a meeting shall be called at the request of any three (3) members of the Board. The purpose of the special meeting shall be stated in the call and no other business shall be transacted other than that stated.

### Comments from Board Members:

- Peter Buonome feels that the Board has authority over all aspects of the fire department. The direction of the Board should be the retention of members and this is what this meeting is about. His concern is that we keep losing members, we keep weeding out members. The purpose of this meeting is to retain members such as Jean Barton tonight. Peter made a motion that Jean Barton should be kept on the Board and moved to an administrative position. There was no second.

### Comments from Members:

- Andrew Bloom: Stated that Peter Buonome's motion should not have been made. The second issue is a conflict of interest he feels that the person who will benefit from this meeting should recuse themselves. (Matt Polesel stated that the meeting is to look at the procedure and not the person.)
- Aaron Gelber brought forth the AOG AA-4 which deals with department physicals. Aaron read from the April 4, 2017 Board Minutes that discussed the moving of the AOG AA-4 from Ops Manual back to the AOG binder. This was passed by the Board on the recommendation of Captain Corrado to keep everything in the Ops Manual and to reference the Ops Manual in the AOG so that he would be able to make changes in the Ops Manual without affecting AOG AA-4. This was approved by the Board at the June 6, 2017 Board meeting. (Peter Buonome – because this Board passes a bunch of AOG's it doesn't mean that this Board even though it is not an issue here tonight that this Board cannot change?) Aaron – I reviewed this and there wasn't an issue some months ago until it effected a Board member. (Peter Buonome has all of the members of the Headquarters' staff had annual physicals?) Aaron – Headquarters' staff is not required by our Ops Manual, By-Laws and AOG's. That is something that we are planning for in the future. (Matt Polesel – I realize that we are discussing a member of the Board, but she is also a member of the department. I would like to believe that given the circumstances presented with any members issue with personnel status we would look at it the same way with a humanistic view regardless if she is on the Board, an officer or a line firefighter.) Aaron - You are charged with you are letting her stay on the Board while you investigate.

(Matt Polesel – She said she recused herself. Would you like her to sit in the audience?) Aaron – It doesn't make a difference to me.

- Ramona Mansfield – Made the statement that you can't change rules for one person which has been done in the past. There are rules in place for a reason. You can't pick and choose. You have to follow them. If they have to be changed then let's go through the proper procedure to change them and get them changed properly. Doing this is not the right way to do it. (Peter Buonome – It seems like it is more global than individual issue because obviously there is going to be something coming up where all the Headquarters' staff people will have to do annual physicals. That's my take on it because of your statement it is individual). Ramona Mansfield – That is not right now.
- Ken Sedlak mentioned By-Laws Article 1 Section 3 that the officers have the operational control of the department, not the Board, the officers under the direction of the Fire Chief. Article VIII Section 3 B describes that the Operations Manual is promulgated by the Chief. The Operations Manual shall have the same force and effect as these By-Laws. Based on this the Board does not have the authority of the Operations Manual. Any attempt by the Board to remove a section of the Operations Manual that is promulgated by the Fire Chief shall be in violation of the By-Laws and would have to be held accountable for that. (Peter Buonome are you inferring what the Board's responsibilities are? Officer works for the Chief and the Chief is appointed by the Board. Are you saying that this Board has no authority) Ken Sedlak – Not for the Operations Manual. That is the Fire Chief. Peter Buonome – I take issue. There is oversight. The Board, any Board. We have oversight over the department. We are elected by the memberships.)
- Jeremy Kaswer stated information regarding the NFPA stand on department physical. I could not get all of what was said (Peter Buonome – It is not that often that officers are subordinate to the chief questions the Board on what their role and responsibility is. He has been in contact with NFPA and Connecticut OSHA and their definition of who comes under the 1582 are firefighters line firefighters, people who are doing fire ground operations not administrative non-fire ground people). (Matt Polesel – In response to your comment about what NFPA 1582 defines, I would refer you to section 9.3 regarding fire department physicals and the roles that are delineated in that).
- Matt Gugliotti – He talked to other fire departments about their department physicals. Connecticut is an OSHA state and NFPA are guidelines. He feels that the reason we are here is because she could not pass a physical that was required by the department for her to transfer to Headquarters. Which is totally not necessary for her to transfer Headquarters as an Administrative member.
- Matt Polesel stated that NFPA does not allow for administrative members as far as requirements for physicals.
- Andy Ozmun told the Board and audience it was very illuminating what was said tonight and that the issue is whether a member should continue to remain on medical leave until it was determined if OSHA or any other regulatory agency requires an administrative staff member to take a fire department physical. He thinks there are two separate issues here. One is what we do for this specific situation and the larger issue do we look at what this says and how do we change it or adjust that for any future issues that come up. We are getting lost on the second issue and need to go back to the actual issue of how we address this issue. What is the best course of action? (Peter Buonome agreed with Andy Ozmun to deal with the issue tonight).
- Andy Ozmun made a further comment that the Board has to follow the rules, that is why we have the By-Laws and AOG's. If there is a problem with that it is encumbered upon us as a group to look at that and say, does this need to be adjusted, do we need to change this. Again, you can't just go and do this for just one situation. We have to follow what is written here.
- Vice President Galliher – Before Peter talks it looks like we are at the section on the Agenda for Board Member Statements.

**Comments from Board Members:**

- Peter Buonome – I believe that we have oversight. We have a veteran member who has given her life for the Avon fire department and because she may be on the other side of the politics of the Avon fire department doesn't mean we drum her off the Board and out of the department. The whole purpose of having a Board of Directors is to deal with abnormalities such as this to protect the members. We are here to protect the members not to validate some rigid and often impersonal and inhumane sometimes policies. It is to deal with the oversight and that is the role of the Board as I see it. We have that authority because the Board of Directors elected by the membership in total not the officers have that responsibility. If we take an action to jettison a member who is doing tons of work, has been a Board Secretary for as long as I can remember on the Board, we are really doing a disservice to the membership and to the Avon fire department.
- Jeremy Kaswer read a statement from John Ryan – While conducting research relating to this special meeting I focused my attention to CT OSHA, Fed OSHA and AVFD By-Laws, AOG's, Ops Manual and past practice. Unfortunately, in the one week of time the information I was able to gather was limited. (See Attachment I)
- Peter Buonome stated that as a tax payer he doesn't feel the expense of doing administrative members physicals is necessary. Our money can be better spent.
- Matt Polesel – We may not be able to vote on anything here whatsoever as indicated by our By-Laws. Our hands are tied, but I would like it known that my gut says this doesn't work. The fact that the Ops Manual is an infallible document regardless of the chief officer. That is not a comment on Chief Trick it is just a comment on the document itself. I think in that case there is a lack of checks and balances if it is considered an infallible document and like I said we may not be able to move anything whatsoever, but it doesn't smell right. I will uphold the By-Laws, but I want it known that I don't think that this smells right. It doesn't work.
- Tad Green – Wanted to know when the section about the Ops Manual that Ken Sedlak talked about changed. Tad was told April 30, 2009. He doesn't like that the Ops Manual can be changed without those changes coming to the Board.
- Vice President Galliher - What he heard tonight is that the Chief is running members off the Board. He doesn't see that being close to the truth. Whether you hate the rules or embrace these rules. One thing is true the Chief is following these rules. Maybe the rules stink, maybe we don't like the rules. Mike Galliher didn't like the way members think that we are running anyone off the Board.
- President Rob Shillington – We have to follow the rules in front of us. It doesn't mean going forward that at some time we will have to evaluate what is in these books and look at potential changes in a structured way. Versus sitting at this table and hammering out piece by piece or person by person what is applicable or not applicable to particular individuals.
- Peter Buonome feels that this should be kept the same until the April Board meeting for further investigation to be done. He started to make a motion, but there was still some discussion to be made.
- Andy Ozmun suggested that maybe we reach out to somebody who is a labor attorney or a labor expert to look at what we have on paper versus what those guidelines and regulations are. Andy agrees that the Board has to follow the rules even if people don't agree with them. Andy asked the question if the Board should look outside of the organization for someone who has a broader skill than we do who understand how these By-Laws, AOG's would reverberate through ADA and these other guidelines we have. Andy feels as of right now we don't have a choice.
- Peter still feels that this should be kept pending because after tonight a veteran of this department is gone.
- Andy Ozmun asked, if we would be different if it was a newer member who hasn't been here that long? Would we be looking at it in a different light? We can't. We have to look at what is written here. We've been yelled at and people are saying a lot of things about not following these rules. Now we are proposing to do that again. If we don't do it for every single case this will continue down the line to continue the problem. That we in favoritism or we're not favoritism, however it might look.
- Peter disagreed with Andy because as a Board we represent all the membership. He feels if there are

- any abnormalities the Board has the right to intercede. Peter wanted to continue with his motion to keep everything the same until the next regular meeting of the Board. Until we can further investigate the impact of ADA and other provisions.
- Vice President Galliher told the Board that action had already been taken in January to extend Jean Barton's medical leave through March 31, 2018.
- Peter's motion is to extend until the next regular meeting of the Board so that we have time to look at all the impact of other regulatory agencies during that time. Tad Green seconded it. After further discussion a vote was taken. Peter Buonome voted yes, Tad Green voted yes, Andy Ozmun and Matt Polesel abstained because they feel the Board doesn't have the right to vote on this issue. Vice President Michael Galliher could not vote since he ran the meeting and President Rob Shillington voted no. Motion was not passed.
- Peter Buonome wanted it on the record that motion did pass. He wanted on record that the vote was taken.

Adjourned at 21:16 (GB)

DRAFT

## Attachment A

While conducting research relating to this special meeting I focused my attention to CT OSHA, Fed OSHA, AVFD Bylaws, AOGs, Ops Manual, and past practice. Unfortunately, in the one week of time the information I was able to gather was limited.

The first problem I encountered is that there is no published job description for Administrative (Headquarters) Personal, because of this no member of this organization can determine what their roles or responsibilities are **limited to**.

OSHA HAZWOPER 1910.120. states,

*“Employees who work in an area (or areas) where there is a potential to witness or discover an uncontrolled release of a hazardous substance and whose actions will be limited to initiating emergency response procedures must receive training...”*

1910.120 also carries physical requirements that are 2-fold

1. To determine fitness-for-duty
2. establish baseline data for comparison with future medical data

**This covers every member who enters the fire station.**

1910.156 Fire Brigades

*“does not preclude the employer’s organization... purpose of fighting fires only with portable fire extinguishers... so long as the employer establishes a written organization policy that outlines the functions that all brigades are to perform at the workplace.”*

1910.156 requires physicals for all fire brigade members

1910.157 fire extinguishers

*“this standard exempts from coverage employers whose employees are not required to use portable fire extinguishers, and have been instructed, through a written fire safety policy, to evacuate the work site upon sounding of a fire alarm.”*

On or about June 2016 Fire police and HQ personal were given training on fire extinguisher use. This was the same night as the Promotion of Firefighter Devita to the Rank of Lieutenant.

Again, there is no Job description or essential job tasks for Administrative personal, based on this training I cannot say that Administrative personal or Fire police are not exempt under 1910.157, hence WE CAN NOT say physical are not necessary or we would be in violation.

The Cancer Bill passed two years ago has a provision for pre-employment physicals. We Have had members move out of HQ's to the support firefighter status. This would have the potential to disqualify them from this benefit. To eliminate the requirement for physical would be irresponsible.

Our rules currently mention administrative members in several areas;

By-law Article 5 membership

AA-4 physicals

JD-3 job description

8.2 physicals

Article 5 Membership section 1 Administrative member

*"an Administrative member shall be at least 18 and certified by Department Physician as being able to perform the duties of Admin member as defined under AOG."*

JD-3 administrative job description for Admin only contains job descriptions for medical officer, Health and fitness coordinator and peer fitness training. Not Administrative Personal

AA-4 physicals was updated 6/6/2017 States

*"Department Physical shall occur according to the procedure delineated in the applicable section of the ops manual...."*

*All members will have a complete occupational medical evaluation annually or at intervals set forth...*

This sitting Board was present on 6/6/2017 and supported this change.

Article 5 section 2 physical certification

*“any requirement for certification of physical ability will be done by the department physicians. Additional requirements can be found in the AOG or Ops Manual”*

Again, without a written job description or written essential job tasks there is nothing stating what Administrative personal are limited to do.

There is no document that states whether or not an administrative member **will or will not** respond to an emergency scene and because of this we cannot guarantee that member will not be exposed to emergency scene contaminates. At this time there is insufficient data or information that will support the Board of Directors potentially violating OSHA, or further violation of the AVFD Bylaws, AOGS, Operations Manual, and Oath of Office. It is my recommendation at this time that AVFD Inc. follow its rules as published and move forward.

Respectfully submitted,

John Ryan