

# CITY OF WARWICK

LESLIE WALASKA BAXTER  
Chairwoman

JAMES PAOLUCCI  
Vice-Chairman

THOMAS P. MCGOVERN  
Clerk



BOARD OF PUBLIC SAFETY  
Warwick, Rhode Island 02886

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## **FIRE DEPARTMENT**

BOARD OF PUBLIC SAFETY ROOM  
WARWICK POLICE HEADQUARTERS

Wednesday, April 25, 2018  
7:00 p.m.

## **EXECUTIVE MINUTES**

At 7:00 p.m. the Board opened its Executive Session for Wednesday, April 25, 2018. Present were Chief James McLaughlin, Assistant Chief Marcel Fontenault, Chairwoman Leslie Walaska Baxter, Vice Chairman James Paolucci, Clerk Thomas McGovern, Assistant Solicitor Joseph Solomon, Jr., and Recording Secretary Lisa Ferolito.

Chairwoman Baxter: I move that the previous closed session of the Board of Public Safety remain closed pursuant to the exception provision 42-46-5 (a) (1) of the Open Meetings Law.

Vice Chairman Paolucci seconded the motion.

Chairwoman Baxter, Vice Chair Paolucci, and Clerk McGovern voted in favor of the motion. Motion approved.

Chairwoman Baxter moved to go into closed session pursuant to the exception provision 42-46-5 (a) (1) of the Open Meetings Law.

Vice Chairman Paolucci seconded the motion.

Chairwoman Baxter, Vice Chair Paolucci, and Clerk McGovern voted in favor of the motion. Motion approved.

1. Chief McLaughlin to discuss a non-service connected disability application of an employee.

Chairwoman Baxter: Okay Chief, please let us know what's going on here.

Chief McLaughlin: Okay we've got two items actually. The first one is Chief McLaughlin submits medical documentation and recommendation from the medical panel on firefighter Ed Alsfeld, Jr. for a non-service connected disability pension, 50% retroactive to termination date of 4/25/17. Firefighter Alsfeld's retirement will be under pension II as specified under the current CBA dated July 1, 2015 to June 30, 2018. If you remember, that was a case that involved the last chance agreement, but also that's when Mr. Penza was here with the union and it was determined that the application to retire wasn't afforded him so he went through a medical review. The results of the medical review was that he be given the non-service connected disability pension. I believe you have all of the documentation from the medical panel.

Chairwoman Baxter: Okay. Now this was the gentleman that he came in that last day, and you had already given him the last chance agreement, he agreed to it, but then at the last minute he wanted a non-service connected disability.

Chief McLaughlin: That's correct. That's when we had counsel here.

Chairwoman Baxter: Yup, and we let him go.

Chief McLaughlin: We had to give the ability to go in front of the medical review panel. That's what he's done in the interim.

Chairwoman Baxter: Okay. Um, Marcel said something about he went to court. Did he have to go to court?

Assistant Chief Fontenault: Did he have to go to court for that? I wasn't sure.

Chief McLaughlin: He went to court for social security at one point. I know Diana had to testify in that regard.

Chairwoman Baxter: Okay.

Chief McLaughlin: Court for the incident, yes he did have charges that, that was the reason why we did that. But, again, after that it was determined that we had to let him go through the panel.

Chairwoman Baxter: Who determined that?

Chief McLaughlin: Diana was here. Joe Penza was here. I believe it was determined at the board meeting that he was afforded the opportunity to go through this process.

Chairwoman Baxter: Okay and we voted to let him go.

Chief McLaughlin: Correct.

Chairwoman Baxter: So now he gets - -

Chief McLaughlin: [interposing] Based on the testing and the medical panel - -

Clerk McGovern: [interposing] What's the difference between 50% job related and 50% non-job related?

Chairwoman Baxter: He'll be getting taxed.

Chief McLaughlin: If it's job related, it would be non-taxable.

Chairwoman Baxter: And the health insurance, correct?

Chief McLaughlin: Correct.

Chairwoman Baxter: How - -

Chief McLaughlin: [interposing] The health insurance is the same.

Chairwoman Baxter: I thought he didn't have health insurance any more.

Chief McLaughlin: He has health insurance once he's given a non-service connected disability pension.

Vice Chairman Paolucci: If he's had this issue since he was 14 years old can they determine it's non-service?

Chief McLaughlin: It's a non-service disability.

Chairwoman Baxter: When this guy was hired, was he drinking when he was hired?

Chief Baxter: Uh.

Chairwoman Baxter: I mean I know you didn't hire him, obviously, but I mean - -

Chief McLaughlin: [interposing] There's a history from all three of the medical doctors. It's all in this packet.

Chairwoman Baxter: I know, I read it, but - -

Chief McLaughlin: [interposing] Right. Whether the extent of his drinking when he came on the job I couldn't answer that.

Assistant Chief Fontenault: It didn't appear to; I know Ed, at one point he had a handicapped child, severely handicapped. I'm not sure if that had something to do with it.

Clerk McGovern: I guess my biggest concern is the fact that there's not teeth in the last chance agreement. So, the next guy who gets the last and final opportunity will say yeah I'll sign it. We're going to get around it anyways.

Chief McLaughlin: I think the difference with this particular case was the packet for the pension.

Sneezing is heard.

Chairwoman Baxter: He came in the day he knew he was getting fired with the application.

Chief McLaughlin: They did come in. That's correct.

Chairwoman Baxter: You know what I mean? He came in; he knew he was getting fired, so he came in with the non-disability application. So, how was he able to get retro also?

Chief McLaughlin: I did talk to Diana about this before coming here, and that's the recommendation of the medical panel, that it would have to go back to that date. It's been almost a year, right?

Clerk McGovern: But it's the medical panel now, not the medical panel then. That's why we didn't give it to him the first time.

Chief McLaughlin: Right, but it was determined to go back to the medical panel after we had that meeting here in this room. Once we made that decision, my understanding is that we are bound by the decision of this current medical review panel.

Chairwoman Baxter: I wish he was here. These are dated this February, this March; I'm sorry, the medical panel is this March, and two appointments this January and one in February. So, all last year, he didn't do anything and he waited until this year, and these are talking about the drinking and everything.

Chief McLaughlin: I'm not sure on the timeline in 2017, calendar 2017, as to when he was told to begin that process of going to the medical panel; the exact date that was clarified.

Chairwoman Baxter: Just reading through, I mean this one from Dr. Wall, all of these jobs; 18 drinking, 23 drinking, 26 drinking; started drinking at 14. Believe me, I feel for that guy, but this wasn't something like that happened on the job like from seeing trauma on the job. This has been on-going and he got hired. Like you said, you come up with one of those agreements but you can come in that day with an attorney and an application for a pension and you know you're going to get it. Because, yeah, of course he's disabled, he can't be a firefighter.

Chief McLaughlin: Madame Chair, I think going forward, that application would be done first, prior to the last chance agreement. I would think that would be the best thing. You have to understand that last chance is the first time the Department's ever done it. So, I think the growing pain and learning curve from that point was maybe to assure in the future that the [inaudible] application is to be done before the last chance is done.

Chairwoman Baxter: If appropriate. It might just be, it's not necessarily going to be a firefighter who's an alcoholic.

Chief McLaughlin: Right.

Chairwoman Baxter: It sounds like our hands are tied.

Clerk McGovern: So it something that is a procedural matter that should get added to the policies and procedures.

Chief McLaughlin: It would probably be a good idea. Lisa, I know we've had that talk about that. Frankly, Karen's been with the job for 21 years and we've never done it. So it wasn't not done by gross negligence on our part, it was just something that simply hadn't been done in the past. I think from this day forward I think it's important to make sure that packet is done. The last chance agreement is a new thing for us. I wouldn't look at it in the future that you wouldn't be able to do that. I think simply you need to just put that before the last chance agreement, I think it would have the teeth. I think that the last chance was good in that it sent a message, that we can do it. We also have another firefighter that's currently serving under the same timeline with the last chance; that was given the last chance around the same time as Mr. Alsfeld, who's doing fine.

Chairwoman Baxter: Would there be any opportunity if whatever that firefighter signed it for if he slips that he's going to come back and say I need one of these.

Chief McLaughlin: The other firefighter that has the last chance right now?

Chairwoman Baxter: Yeah. I mean say he gets his last chance; is he going to come in and say that oh no I want a non-service disability pension.

Chief McLaughlin: I think make sure in the past that that was the case. Then we would make sure that the documentation was done first prior to the issuance of the last chance agreement.

Chairwoman Baxter: What I'm saying is there an option with that other firefighter?

Chief McLaughlin: I don't believe so.

Chairwoman Baxter: Okay, because I don't know why he signed that. I don't know what the circumstances are. I'm just saying, if it's a health issue, if it's a medical issue, I don't know.

Chief McLaughlin: Right.

Chairwoman Baxter: Okay, well we're kind of stuck.

Clerk McGovern: Personally, I think Diana should have been here to kind of explain what our options are. I think our options are zero.

Chief McLaughlin: I did reach out to Attorney Pearson, and it's basically based on the medical panel. There was no contesting from the City's side.

Vice Chairman Paolucci: So if you see someone with medical issues, before you give them that last chance, you're going to evaluate them and take them off the job?

Chief McLaughlin: That probably would be an option going forward, yes.

Vice Chairman Paolucci: [inaudible] Different situation. If it were a firefighter goofing off in a bar or something, maybe it would be a last chance thing; there would be no medical involved.

Chief McLaughlin: Correct.

Chairwoman Baxter: This is a big chunk of change going forward, for someone who unfortunately signed that paper. Well, we don't have any options.

Vice Chairman Paolucci: When he signed that paper was there any indication that he had a drinking problem or a disability?


Chairwoman Baxter: A drinking problem, yeah. But the day he came in that we were going to fire him, he came in with an attorney and the disability application. We fired him. So, it is what it is. Alright, so do we vote in open session?

Chairwoman Baxter: I move that the previous closed session of the Board of Public Safety remain closed pursuant to the exception provision 42-46-5 (a) (1) of the Open Meetings Law.

Vice Chairman Paolucci seconded the motion.

Chairwoman Baxter, Vice Chair Paolucci, and Clerk McGovern voted in favor of the motion. Motion approved.

**ACTION:** Chairwoman Baxter made a motion to approve the non-service connected disability pension for Ed Alsfeld. Vice Chairman Paolucci seconded the motion. Chairwoman Baxter, Vice Chairman Paolucci, and Clerk McGovern voted in favor of the motion. Motion approved.

  
Thomas P. McGovern, Clerk