

St. Tammany Fire Protection District No. 1

Board of Commissioners

Regular Meeting Minutes September 15, 2015

The meeting was called to order at 6:01 p.m.

The pledge of allegiance and prayer were given.

ROLL CALL: Chairman Crowley and Commissioners McDonald, Brackett, Risley and Hoying were present.

AWARDS & RECOGNITION-

Years of Service

9 years Rachel Aucoin

Swear- In

Communication Officers Emmanuel Rahman and Matthew Gros

Recognition Letters

- Dan and Kay Schewe thanked Firefighter Chris Darby, Operator Remerow and Captain Parish for their professionalism while working the scene of their automobile accident
- Mayor Mitch Landrieu thanked Honor Guard members Relle, Lee, Geddes and Lutman for attendance Dr. McSwain's funeral

In Remembrance

Retired Communications Officer Pat Mahler- Ducote (16 years)

APPROVAL OF MINUTES

Commissioner Risley made a motion to approve the minutes of the August 18, 2015 meeting. Commissioner Brackett seconded the motion. The motion carried unanimously.

OLD BUSINESS –

- a.) **2016 Budget-** Chief Kaufmann stated that he has recommendations for finding additional funds for the Station 18 Resolution (below). A final budget proposal will be presented within 30 days.
- b.) **Station 18-** (discussion under "PMI")

NEW BUSINESS –

1. Chief's Report

- a.) **Don Massad- Health Insurance Renewal-** Don Massad stated that we have 4 Humana plan options. He stated that the original renewal was a 5% increase, due to trend, etc.; however, at the end of the negotiation process, we got a 5% decrease- with no change to the benefits.

Mr. Massad briefly discussed the renewal review booklet:

- RFP (Request for Proposals)
- Historical Overview
- Renewal Recap

- Total Variance: \$ 202,104.36
- Cumulative Premium Savings (2005-2015): \$ 1,634,434.22
- MLR (Medical Loss Run)
- Humana Renewal

Mr. Massad stated that under the Affordable Care Act, we have IRS reporting requirements as to whether or not the department offer a benefit that meets a minimum value, and whether or not our employees took it, to determine whether or not subsidy money was given that will need to be paid back. He further stated that PMI, as well as a firm in Baton Rouge, Postlethwaite & Netterville, will do this reporting. The reporting cost is \$1,900 annually, plus \$900 for PMI Administrative fees. Chief Kaufmann stated that these costs will come from the “Deductible Offset” budget line.

b.) Public Campaign – Citizen’s Academy- Chief Kaufmann stated that the fourth class is on Wednesday (Sept. 16) and Saturday (Sept.19) is the field day.

c.) Act X Apartment Fire- Chief Kaufmann stated that this was a potentially tragic situation and could have been the worst life loss tragedy in the history of the department. He further stated that due to the age of the building, it was not up to code (i.e. one means of egress).

Chief Kaufmann complimented the employee’s firefighting and rescue performance.

Chief Kaufmann stated that the ATF National Response Team responded, bringing 25 people with specific areas of expertise. Additionally, the Sheriff’s Office, State Fire Marshall’s, our Investigator’s, and ATF worked together in this joint effort.

Chief Kaufmann stated that an arrest has been made and there will be additional charges added.

d.) Operations Report- Chief of Administration Worchel discussed the “Operations” reports (August) which covers Hydrants Inspected, NFIRS Incidents, Dollar Loss/ Dollar Save (by Station location), Average Response Time (by Station) and EMS Call Type and Number of Incidents

Chief Kaufmann stated that he received a call from a hospital where the ER Doctor praised the lifesaving efforts, performed by Captain/Paramedic Willis, with intubating a 5 week old baby.

e.) Fire Prevention Report- Chief of Administration Worchel discussed the monthly “Fire Prevention” report (August) which included Inspections, Public Fire Safety & Education Events, Investigations, and Economic Impact.

f.) Training Report – Chief of Training Billman discussed the “Training” report (August) which included Classes and Certifications.

g.) Maintenance Report- Chief of Administration Worchel stated that Maintenance Officer Marc has been able to come in and assist with paperwork.

Chief of Administration Worchel reported that while there were four major repairs, there was not significant monetary value involved.

Commissioner Hoying inquired about the inspection process. Chief Kaufmann stated that we do pre-fire planning and identify any challenges. As far as actual inspections, any renovated or new construction are inspected, and buildings are re-inspected annually.

District Chief Sanders stated that PIAL is checking hydrant locations.

Commissioner Hoying wanted to confirm that contingencies were in place to minimize risks. Chief Kaufmann confirmed this.

h.) General Comments- (none)

Commissioner Brackett made a motion to accept the Chief's report. Commissioner Risley seconded the motion. The motion carried unanimously.

2. SFFA (Slidell Firefighters Association) – (none)

3. PMI Report

a.) Employee Benefits- Open Enrollment

b.) Human Resource

1) 2015-036: BOC Resolution (Public Notice Posting)

Commissioner McDonald made a motion to adopt Resolution 2015-036, Relating to Compliance for Public Notice Posting (s) for District No.1. Commissioner Risley seconded the motion.

Commissioner Brackett inquired as to whether this Resolution was necessary. Chief Kaufmann stated that the purpose was transparency; our practice has been 30 days.

The motion carried unanimously.

2) 2015-040: BOC Resolution (Fire Recovery USA)

Commissioner Brackett made a motion to adopt Resolution 2015-040, Relating to Establishing and Implementing a Program to Charge Mitigation Rates for the Deployment of Emergency Services by the Fire District for Services Provided / Rendered for District No.1. Commissioner McDonald seconded the motion.

Mr. Waniewski stated that this was done in the past; however, Fire Recovery has asked that we modify the format.

The motion carried unanimously.

3) 2015-041: BOC Resolution (Adopt 2014 Audit)

Commissioner Risley made a motion to adopt Resolution 2015-041, Relating to Approval of the 2014 Audit for District No. 1. Commissioner Brackett seconded the motion. The motion carried unanimously.

4) 2015-042: BOC Resolution (Station 18 "Responsive & Responsible Bidder")

Commissioner McDonald made a motion to open Resolution 2015- 042, Relating to Awarding of the Responsive and Responsible Bidder for Station 18 for District No.1. Chairman Crowley seconded the motion.

Attorney Ingram stated that he was tasked with determining whether McMath was both the "lowest responsive and responsible bidder." After a couple of meetings, it was determined that McMath met the

criteria of “responsive.” With regards to “responsible bidder” he stated that a background check was conducted which consisted of going through St. Tammany Clerk records, for any lawsuits involving McMath, as well as did a Lexis search. Attorney Ingram stated that he presented the Board with his findings. Additionally, he did a newspaper search, and found nothing significant.

Attorney Ingram stated that Dammon Engineering sent a recommendation that the contract be awarded to McMath, and based on his conversations with Chief Worchel and Chief Kaufmann, everyone was in agreement that McMath meets the criteria of “lowest responsive and lowest responsible” bidder and therefore, should be awarded the contract; notwithstanding the budget overage of \$89,000.

Commissioner Hoying inquired as to what the threshold for “responsible” is. Attorney Ingram stated that it was subjective, and based on his interpretation of what was researched.

Commissioner Risley stated that the next Resolutions pertained to approving additional funding for Station 18, and wondered why we were voting to award a bid, without getting the approval for additional funds.

Chairman Crowley stated that Resolutions 2015-043 and 2015-044 would be discussed before voting on 2015-042. Chief Kaufmann stated that an e-mail was sent, which detailed the requests.

Commissioner Hoying stated that the budget was 1.2M, and we previously excluded bids due to them being over budget, and all of the new bids are over budget, even after de-scoping the statement of work, and we will have to spend additional money for things in the original bid. Chief Kaufmann stated that our goal was to stay within budget and it appears that the economy is different. He further stated that no one expected an increase after the modifications were done.

Chief Kaufmann stated that a few of the items presented, including the exhaust system, was part of the Accreditation process that we advised them that we would move forward on with any future stations. The exhaust system was not included in the set of plans, to avoid sub-contractors, general contractors, and 20% of profit and overhead.

The breakdown for the request for additional Station 18 funds is as follows:

RFP difference	\$86,000
Architect Fees	\$47,440
Soil / Concrete Testing	\$7,500
Landscaping	\$5,000
<u>Misc</u>	<u>\$10,000 (for unforeseen issues)</u>
Sub-total	\$155,940
<u>Exhaust System RFP</u>	<u>~\$50,000</u>
Total	\$205,940

The motion carried unanimously.

- 5) 2015-043: BOC Resolution (Station 18 Additional Funding)

Commissioner Brackett made a motion to adopt Resolution 2015-043, Relating to Approve Additional Funding for Station 18 for District No.1. Commissioner McDonald seconded the motion. The motion carried unanimously.

- 6) 2015-044 - BOC Resolution (Station 18 Apparatus)

Commissioner McDonald made a motion to adopt Resolution 2015-044, Relating to Approval of Additional Funds for Station 18 Apparatus for District No.1 Commissioner Risley seconded the motion. The motion carried unanimously.

- 7) 2015-045 – BOC Resolution (Certificate of Deposit “CD” Investments) – Discussion Only

Commissioner Risley made a motion to adopt Resolution 2015-045, Relating to the Approval to Invest in Certificates for Deposit for District No. 1.

Aubrey, with DiGiovanni & Associates, briefly discussed the options that the Administration discussed and previously presented to the Board.

Commissioner Hoying seconded the motion. The motion carried unanimously.

- c.) **Payroll** – (none)
- d.) **FRS (Firefighters Retirement System)** – (none)
- e.) **VFIS Special Risk Insurance & LWCC** – (none)

Commissioner Brackett made a motion to accept the PMI report. Commissioner Risley seconded the motion. The motion carried unanimously.

- 4. **DiGiovanni & Associates, CPA’s LLC-** Aubrey discussed the financial report.

Commissioner Brackett made a motion to accept the financial report. Commissioner McDonald seconded the motion. The motion carried unanimously.

5. Attorney’s Report-

- 1) **Research Concerning “Lowest Responsive & Responsible Bidder-** (discussed above)

Commissioner Brackett made a motion to accept the Attorney report. Commissioner Risley seconded the motion. The motion carried unanimously.

- 6. **Executive Session-** Discuss the character, fitness and competence of a Commissioner

Commissioner McDonald advised that he wanted the discussion to be held in a public meeting.

Open Executive Session began at 7:45 p.m.

Chairman Crowley stated that on August 20, he received a formal complaint/ letter from Chief Kaufmann. There was minimal delay in getting it to all of the Commissioners, as legal counsel was out of town. He requested that legal counsel go through the information and conduct this portion of the meeting, as he is more qualified. (The meeting was turned over to Attorney Troy Ingram).

Attorney Ingram stated that he wanted to begin with the exhibits he put together:

- A.) Letter to Commissioner McDonald, dated Sept.11, (by e-mail at 3:35 p.m., and certified mail) along with the complaint from Chief Kaufmann. This was also hand-delivered on Sunday afternoon (Sept. 13).
- B.) Chief Kaufmann’s letter dated August 20
- C.) Chief Kaufmann’s response, to the initial complaint, dated Aug. 12, 2015
- D.) Section 10.1 of the Employee Handbook

- E.) Advertisement/Endorsement that formed the subject matter of the original complaint (July 2015 edition of Slidell Magazine)
- F.) Prior reprimand on Commissioner McDonald (separate incident)

Attorney Ingram inquired as to whether Commissioner McDonald had any objections to any of the exhibits. Commissioner McDonald stated that his only objection was Exhibit "F" and he requested that it be stricken. Attorney Ingram stated that this is a formal hearing, and this is information that he intended to present to the Commissioners.

Attorney Ingram: "Commissioner McDonald, have you had an opportunity to review the correspondence from Chief Kaufmann to Chairman Crowley dated August 20, 2015"?

Commissioner McDonald: "I have"

Attorney Ingram: "And you also previously reviewed Chief Kaufmann's response of August 12, 2015 to your assertion that he violated Section 10.1 of the Employee Handbook by participating in an endorsement of Barbara's Victorian Closet, correct"?

Commissioner McDonald: "Correct"

Attorney Ingram: "So, you understand the complaint that Chief Kaufmann has lodged against you?"

Commissioner McDonald: "I understand"

Attorney Ingram: "So that we're all on the same page, Chief Kaufmann has asserted mainly that you've engaged in a pattern of personal attacks on his professional reputation as Chief of the Fire District and as a community leader in the City of Slidell and Parish of St. Tammany, and that these attacks go back as far as 2011, prior to his being chosen as Chief of this Fire District. He's also alleged that your actions have undermined his authority as Chief of the Fire District, and that you have conducted an investigation in violation of the Firefighter's Bills of Rights by questioning Chief Randy Smith about possible ethical violations, without first advising him of the commencement of an investigation, as well as his rights, pursuant to the Firefighter's Bill of Rights'.

"So, you understand these allegations that have been brought by Chief Kaufmann"?

Commissioner McDonald: "yes"

Attorney Ingram: "Now, it is my understanding that these allegations stem from a discussion which you had with SPD Chief Randy Smith several months ago, complaining about Chief Kaufmann appearing in the July 2015 edition of Slidell Magazine, and the statement which was attributed to him in which he apparently endorses Barbara's Victorian Closet, correct"?

Commissioner McDonald: "Not correct"

Attorney Ingram: "Not correct? Would you explain to me how I have mischaracterized how/what this stemmed from? Did you not have a conversation with Chief Smith about Chief Kaufmann appearing in the July 2015 edition of the Slidell Magazine?"

Commissioner McDonald: "I asked Chief Smith, in passing (about a 10 second conversation), if he would look at the Slidell Magazine, page 9, and let me know what he thought about it."

Attorney Ingram: "Let's just go ahead and pass this around to the Commissioners so that they can take a look. While they are doing that, whenever we do a pre-disciplinary hearing involving a Firefighter, they are instructed that during an investigation, they are sworn to tell/speak the truth at all times, and although that doesn't necessarily apply to you, I would think that given the fact that you're a Commissioner of this Board and subject to enforcing the rules and provisions of the employee handbook, I would ask that you adhere to that in this case. I'm not suggesting that you haven't, I'm just setting forth the rules of the outline."

"Okay, let me go back to what you told Chief for just a minute- how did you learn about Chief Kaufmann's photo and the alleged endorsement in the Slidell magazine?"

Commissioner McDonald: "By opening the magazine, and reading the magazine."

Attorney Ingram: "kay, and what was your initial impression when you opened it?"

Commissioner McDonald: "It was something wrong."

Attorney Ingram: "Okay"

Commissioner McDonald: "with the advertisement"

Attorney Ingram: "Could you explain?"

Commissioner McDonald: "it didn't look right- I didn't know quite what it was, it just didn't look right, that it was something off."

Attorney Ingram: "So what did you do? Let me back up, can you put a time frame on when it first came to your attention?"

Commissioner McDonald: “early July”

Attorney Ingram: “early July”

Commissioner McDonald: “not real early, it was after the 4th”

Attorney Ingram: “Alright, so what did you do as a result of that?”

Commissioner McDonald: “I thought about it for a minute and I wanted to find out more about the Louisiana Code of Ethics and what that was, so I wanted to get more information about that and get some people’s opinion about the Louisiana Code of Ethics.”

Attorney Ingram: “Okay, did you go online and do any research of your own on the Louisiana Code of Ethics?”

Commissioner McDonald: “Yes, I did and couldn’t get a good enough, definitive answer.”

Attorney Ingram: “I’m sorry, say again”

Commissioner McDonald: “I didn’t get a good enough definitive answer from it”

Attorney Ingram: “Did you contact anyone at the Louisiana State Board of Ethics?”

Commissioner McDonald: “Not at this time”

Attorney Ingram: “At any time?”

Commissioner McDonald: “Yes, I did”

Attorney Ingram: “And who did you contact at the Louisiana Board of Ethics?”

Commissioner McDonald: “I don’t remember the name, all I did is ask a generic question on an advertisement and they said that the biggest thing is we had to prove that they made financial gain- I never wanted any part of that”

Attorney Ingram: “And when did you make that call?”

Commissioner McDonald: “middle of July”

Attorney Ingram: “Was there only one call that you made to the Louisiana Board of Ethics?”

Commissioner McDonald: “that’s correct”

Attorney Ingram: “Alright, you said it didn’t look right- did you pass the advertisement to anyone else and ask them to look at it, and ask their opinion?”

Commissioner McDonald: “No”

Attorney Ingram: “Your wife?”

Commissioner McDonald: “Yes, I did to my wife”

Attorney Ingram: “Okay, anyone affiliated with the Fire District at all?”

Commissioner McDonald: “No”

Attorney Ingram: “No Commissioners?”

Commissioner McDonald: “nope”

Attorney Ingram: “no Fire District personnel?”

Commissioner McDonald: “nope”

Attorney Ingram: “no former Fire District personnel?”

Commissioner McDonald: “nope”

Attorney Ingram: “Now, I asked, in my original outline- I’ll repeat the question- It’s my understanding that the allegations stem from a discussion, from Chief Kaufmann’s perspective, stem from a discussion which you had with Slidell Police Chief Randy Smith several months ago in which you complained about Chief Kaufmann appearing in the July 2015 edition of Slidell Magazine and the statement attributed to him- and I believe you denied that you made such a statement to Chief Smith.”

Commissioner McDonald: “That’s correct, all I asked Chief Smith is to take a look at it and let me know what he thought.”

Attorney Ingram: “But, you did have a conversation with Chief Smith?”

Commissioner McDonald: “that’s correct”

Attorney Ingram: “Did you approach him prior to a City Council meeting to discuss Chief Kaufmann’s appearance in the July edition of Slidell Magazine?”

Commissioner McDonald: “I believe that’s when I asked him to take a look at it”

Attorney Ingram: “So, the answer is yes to that question?”

Commissioner McDonald: “yes”

Attorney Ingram: “And, where did this conversation specifically take place- was it in the Council Chambers?”

Commissioner McDonald: “In the Council Chambers”

Attorney Ingram: “And, who else was around you at the time you approached Chief Smith?”

***Commissioner McDonald:** “no one close- there were people in milling around, but the discussion was just between Chief Smith and myself.”

Attorney Ingram: “Was there anyone within earshot of you and Chief Smith?”

Commissioner McDonald: “the Council is pretty small and everyone is within earshot, that’s correct.”

Attorney Ingram: “So, can you guesstimate as to how many people may have been within earshot?”

Commissioner McDonald: “I can’t”

Attorney Ingram: “15-20?”

Commissioner McDonald: “I don’t think it was that many people”

Attorney Ingram: “10-15?”

Commissioner McDonald: “I can’t guess”

Attorney Ingram: “more than 5?”

Commissioner McDonald: “there’s more than 5 City Council members, so yes”

Attorney Ingram: “Alright, would you explain to us what transpired, would you explain to the Board what transpired as you approached Chief Smith?”

Commissioner McDonald: “I said it already- I asked him to take a look at a Slidell Magazine, page 9, and let me know what he thought.”

Attorney Ingram: “So, you didn’t have a copy of it?”

Commissioner McDonald: “I did not have a copy of it, no I did not.”

Attorney Ingram: “What was the purpose of you asking Chief Smith to take a look at it, and ask for his opinion as to what he thought?”

Commissioner McDonald: “Because he is a Civil Service employee, in charge of a bunch of Civil Service employees, and I figured him to be – I consider him a subject matter expert in the Louisiana Code of Ethics, with Civil Service employees.”

Attorney Ingram: “Repeat what you said please”

Commissioner McDonald: “I consider him a subject matter expert with Civil Service employees and Louisiana Code of Ethics”

Attorney Ingram: “I would agree with you on Civil Service, but what do you think qualifies him as an expert with respect to Louisiana law?”

Commissioner McDonald: “just because he’s been in the system and has made a high official rank and dealt with it enough.”

Attorney Ingram: “Did you ask him if he’d seen the most recent edition of Slidell Magazine?”

Commissioner McDonald: “I mentioned the July edition, that’s correct”

Attorney Ingram: “And you specifically asked him if he’d seen Chief Kaufmann’s picture?”

Commissioner McDonald: “I don’t remember saying his name, but I might have- yes- but, it was page 9- to take a look at that page.”

Attorney Ingram: “Did he say, at that point in time, whether or not he had seen the edition?”

Commissioner McDonald: “in fact, he never responded to me”

Attorney Ingram: “Did you suggest to Chief Smith that you believe Chief Kaufmann had engaged in an inappropriate manner, amounting to an ethics violation, by appearing to endorse Barbara’s Victorian Closet?”

Commissioner McDonald: “I don’t think so”

Attorney Ingram: “Let me just ask you pointedly- did you say “your friend (referring to Chief Kaufmann) might have some issues, which might constitute an ethics violation, or something to that effect- when you approached Chief Smith in the City Council?”

Commissioner McDonald: “Yes, I might have said that”

Attorney Ingram: “What did you hope to gain by addressing Chief Smith about this “endorsement”?”

Commissioner McDonald: “a better understating of the Louisiana Code of Ethics”

Attorney Ingram: “And, it’s my understanding that you, your subsequent investigation would reveal that you believe he had violated Section 10.1 of the Employee Handbook, correct?”

Commissioner McDonald: “Since I got no response, I looked at the Handbook, and that’s when I brought it to the Chairman, and at that point I saw there could be part of an internal ethics- In fact, I brought it to him so he could look into, too.”

Attorney Ingram: “As Exhibit B, in your package, you’ve got 10.3- Code of Ethics- excuse me, 10.1, Code of Ethics- would you tell the Board which portion, in particular, you believe Chief Kaufmann may have violated by his appearance in the Slidell Magazine?”

Commissioner McDonald: “The last paragraph/line- employees will at all times, when in contact with the public, be fair, courteous, respectful, and impartial.”

Attorney Ingram: “ok, let’s break it down”

Commissioner McDonald: “impartial”

Attorney Ingram: “ok, so you thought- he was in public, there was nothing indicating he was not fair, there was nothing to indicate that he was not courteous or respectful- it’s the impartial that you focused on.”

Commissioner McDonald: “That’s correct”

Attorney Ingram: “ok, and explain to the Board what you believe constituted a lack of impartiality with respect to the advertisement that was the subject matter...”

Commissioner McDonald: “when you read the advertisement, as it’s shown up there, the writing right next to the Chief – Chief Kaufmann’s name- above his name and right next to him- where he calls out a specific business and the advertisement.”

Attorney Ingram: “Okay”

Commissioner McDonald: “I’ll read it to you- “There are so many unique items at Barbara’s Victorian Closet. It’s just another reason why I love to shop Olde Towne!” And, the one line is Barbara’s Victorian Closet, he called out one specific business.”

Attorney Ingram: “ok, he says there are many unique items at Barbara’s Victorian Closet- do you have any reason to dispute that statement? That there are many unique items at Barbara’s Victorian Closet

Commissioner McDonald: “no”

Attorney Ingram: “Does it say he shopped at Barbara’s Victorian Closet?”

Commissioner McDonald: “It doesn’t”

Attorney Ingram: “Does it say he supports Barbara’s Victorian Closet?”

Commissioner McDonald: “you could infer that.....”

Attorney Ingram: “just answer the question please- does he specifically state.....”

Commissioner McDonald: “no”

Attorney Ingram: “But, you inferred”

Commissioner McDonald: “yeah, I inferred”

Attorney Ingram: “you inferred”

Commissioner McDonald: “that’s right”

Attorney Ingram: “I think we’re clear- you don’t allege, or believe that Chief Kaufmann received any remuneration or compensation for this advertisement.”

Commissioner McDonald: “That’s correct”

Attorney Ingram: “Nor do you believe he obtained anything of value by.....”

Commissioner McDonald: “That is correct”

Attorney Ingram: “participating in this advertisement”

Commissioner McDonald: “That’s correct”

Attorney Ingram: “Now, are you familiar with the Louisiana Revised Statutes that pertain to the Firefighter’s Bill of Rights (the true statement, placed in the Revised Statutes is the Fire Service Bill of Rights)

Commissioner McDonald: “Yes, I am”

Attorney Ingram: “with respect to when an investigation is begun”

Commissioner McDonald: “that’s correct, yes, I am”

Attorney Ingram: “Are you specifically familiar with Section 2181, of Title 33, which governs the minimum standards applicable during an investigation of possible misconduct by a fire employee?”

Commissioner McDonald: “yes, I am- I

Attorney Ingram: “Are you aware, that prior to the commencement of a formal investigation of a fire employee, the appointing authority is required to notify the employee of the nature of the investigation, the identity and the authority of the person conducting the investigation, and of the specific charges or violations being investigated?”

Commissioner McDonald: “Yes, I am”

Attorney Ingram: “Do you know that under the Fire Service Bill of Rights, interrogation is defined as including, but not limited to, any formal interview, inquiry, or questioning by the appointing authority, or its designee, of any persons or fire employee personnel regarding misconduct, allegations of misconduct, or any policy violation?”

Commissioner McDonald: “Yes, I am”

Attorney Ingram: “Did you know that the fire employee has the right to have the counsel or representative present during any interrogation in connection with an investigation of misconduct, or allegations of misconduct?”

Commissioner McDonald: “Yes, I am”

Attorney Ingram: “Are you aware that any discipline, demotion, dismissal or other adverse action taken against a firefighter in violation of the Bill of Rights, as set forth above, is an absolute nullity according to the Statute?”

Commissioner McDonald: “yes”

Attorney Ingram: “Yet, in this instance there was no written notification to Chief Kaufmann that an interrogation had taken place as exemplified by your contacting/ speaking to Chief Smith, and asking him for his opinion. Is that correct?”

Commissioner McDonald: “At that time, no”

Attorney Ingram: “Did you, at any time, prior to interrogating Chief Smith, advise Chief Kaufmann, either in writing, or orally, that you were conducting an investigation?”

Commissioner McDonald: “No, I did not”

Attorney Ingram: “And therefore, there was no opportunity for him to have a representative, or counsel, present when you spoke to Chief Smith.”

Commissioner McDonald: “Yes, and at this time I’d like to stop you because you didn’t read all of A.2

Attorney Ingram: “Let me- I’ll give you the opportunity.....”

Chairman Crowley: “I’d like to hear what he has to say”

Commissioner McDonald: “You didn’t read all of A.2 and it’s important right now- the last line on A.2 says an initial inquiry conducted by the Fire employees immediate supervisor shall not be considered an interrogation- initial inquiry conducted by the fire employees immediate supervisors- who is Chief Kaufmann’s immediate supervisor?”

Attorney Ingram: “The Board of Commissioners- as a whole”

Commissioner McDonald: “shall not be considered as an interrogation”

Attorney Ingram: “I think that’s a very good point- the point being though is that you were not going to people within the Fire District regarding his violation of Section 10.1 – I’d be willing to bet you that Chief Smith knows nothing about Section 10.1”

Commissioner McDonald: “I didn’t ask about 10.1”

Attorney Ingram: “But, my point is, now you have taken it outside of the Board, of the Fire District, and you’re now asking other people without affording the Chief any courtesy of response- but we’ll get to that in a minute. Let me back up and ask this... how would you describe your relationship with Chief Kaufmann?”

Commissioner McDonald: “Professional, but good”

Attorney Ingram: “Pardon?”

Commissioner McDonald: “Professionally- good”

Attorney Ingram: “So you would describe yourself as having a professional relationship with him?”

Commissioner McDonald: “yes”

Attorney Ingram: “A good professional relationship

Commissioner McDonald: “that’s correct”

Attorney Ingram: “Ok- you’ve met with him dozens of times in the past to discuss budget issues, maintenance issues, correct?”

Commissioner McDonald: “yes”

Attorney Ingram: “More than- several dozen times”

Commissioner McDonald: “that is correct”

Attorney Ingram: “three or four dozen”

Commissioner McDonald: “That’s correct, yes”

Attorney Ingram: “How many times did you meet with Chief Kaufmann between the time of your seeing his photo in the Slidell Magazine and the time that you asked that an investigation be opened, around August 11, 2015? So, let’s go back and say you first became aware of it sometime around July 4th, I think you testified.....”

Commissioner McDonald: “after the 4th, yes”

Attorney Ingram: “Ok, so we’re talking about 5 five weeks”

Commissioner McDonald: “there was a couple meetings we met, an that’s about the only times”

Attorney Ingram: “two or three meetings?”

Commissioner McDonald: “two or three meetings”

Attorney Ingram: “During any of those two or three meetings, did you bring up, to his attention, “hey, I saw this advertisement- I gotta ask you, what is going on, why did you do this?”

Commissioner McDonald: “No”

Attorney Ingram: “Why not?”

Commissioner McDonald: “It wasn’t my place- it’s the Board’s place to bring that up”

Attorney Ingram: “so, you were referring to A.2 a minute ago, about supervising personnel and you said it wasn’t your place just then- and you met him two or three times but yet it was okay for you to go and ask Chief Smith”

Commissioner McDonald: “if there was going to be an investigation, it needed to come from the Board”

Attorney Ingram: “I agree with you 100%”

Commissioner McDonald: “I wasn’t doing an investigation on him- I asked Chief Smith to find out what he thought of it so I could better understand the Louisiana Code of Ethics- then I brought it to our Chairman, Dan Crowley:”

Attorney Ingram: “So that I’m clear, so that the testimony is clear, the two or three times you met him, you didn’t think it was your place to bring it up to his attention- or even ask him, despite the fact that you have a good, professional relationship with him- you didn’t once bring it up to him- you instead went and asked Chief Smith what he thought about it- never did get a response from him, but yet, you didn’t think it was your obligation to talk to him because that was the function of the Board of Commissioners.”

Commissioner McDonald: “After I talked to Chief Smith, and didn’t get a response, the next person I talked to was Chairman Crowley- he looked into it, he responded and at that point, that’s when we went from there. I wasn’t going to bring it up....”

Attorney Ingram: “What specifically did you communicate to Chairman Crowley?”

Commissioner McDonald: “I asked him to take a look at it, let me know what he thinks, and see if we have a problem there”

Attorney Ingram: “what was his response?”

Commissioner McDonald: “immediately there was none, because he hadn’t go to it- when he did get back to me, his response was,”yes, he did think there was an issue with it, but he doesn’t believe, and I agree with him, that it is a violation of Louisiana Code of Ethics- he did say that it looks like there’s an ethical issue, but it looks like an internal ethical issue”

Attorney Ingram: “So, according to what you’re saying, Chairman Crowley said that he did not believe there was an ethical issue....”

Commissioner McDonald: “No, it wasn’t Louisiana Code of Ethics violation, but there was an internal ethical issue.”

Attorney Ingram: “Did you interpret that as giving you the green light to then conduct further investigation into Chief Kaufmann?”

Commissioner McDonald: “No”

Attorney Ingram: “Did you ask any other Board members about their opinion?”

Commissioner McDonald: “No”

Attorney Ingram: “Does this Board operate based on two votes, or on a quorum?”

Commissioner McDonald: “It operates on a quorum”

Attorney Ingram: “Did you ever have a quorum?”

Commissioner McDonald: “Never did”

Attorney Ingram: “... three independent votes or nods to go forward with this?”

Commissioner McDonald: “nope”

Attorney Ingram: “So, you didn’t believe that as a professional courtesy, despite your good, professional relationship with Chief that you should discuss with him your concern about the handbook?”

Commissioner McDonald: “no”

Attorney Ingram: “you didn’t send him an e-mail at any time advising him of your concerns?”

Commissioner McDonald: “no”

Attorney Ingram: “You didn’t ask to meet with him at any time to discuss your concerns?”

Commissioner McDonald: “no, I did not”

Attorney Ingram: “you didn’t telephone him and ask for the opportunity to meet with him to discuss your concerns?”

Commissioner McDonald: “I did not”

Attorney Ingram: “In retrospect, do you think it would have been more prudent for you to pull him aside and say, “hey, I know you- I know that you wouldn’t intentionally do anything to violate any policy in the handbook- can you explain this to me?”

Commissioner McDonald: “no- I would still go through the Chairman”

Attorney Ingram: “Wait, let me be clear- when you say you would go through the Chairman, explain, please, what you meant by that”

Commissioner McDonald: “At the point when I realized that there was something that needed to be brought down, I would bring it to the Chairman and have him look at it and see if he agrees with me- if he agrees with me that something needs to be looked at- and, after we had that discussion, where he did agree with me, his idea was to go to Chief and have a one on one conversation”

Attorney Ingram: “That never happened”

Commissioner McDonald: “My recommendation to him was that it shouldn’t come from one person, it should come from the Board- and we should do an investigation to see if there actually is a violation”

Attorney Ingram: “But you already went and did an investigation / interrogation with Chief Smith”- you took it upon yourself- you wanted to go through the Board, but you took it upon yourself to go see the Chief and ask for his opinion”

Commissioner McDonald: “*the Louisiana Code of Ethics- that’s all I asked for*”

Attorney Ingram: “No, you said Civil Service- you consider him to be an expert in Civil Service and Louisiana Code of Ethics”

Commissioner McDonald: “and I asked for his opinion on the Louisiana Code of Ethics”

Attorney Ingram: “but this had to do with an employee handbook issue, not an ethics issue”

Commissioner McDonald: “and when I didn’t get a response back, and like I said, I called the Louisiana and found out it wasn’t a violation, there was no way, that’s why I went and looked at the handbook- and talked to Dan Crowley”

Chairman Crowley: “Do you have some other questions that you want to cover?”

Attorney Ingram: “Does this pattern of distrust toward Chief Kaufmann- does this resemble anything else we’ve seen before?”

Commissioner McDonald: “you have seen some before, but that has been adjudicated and found unsubstantial”

Attorney Ingram: “really?”

Commissioner McDonald: “by his own writing”

Attorney Ingram: “really?” Let’s, for the benefit of Commissioner Hoying, who wasn’t present back then.....”

Commissioner McDonald: “No, let’s not- it says right here that it was concluded that there was not- there was no proof that anything was done and the alleged allegation was unsubstantiated”

Commissioner McDonald: “That is the accusation against Chief Kaufmann, who was then Chief of Administration Kaufmann”

Commissioner Brackett: “are you quoting this right here?”

Commissioner McDonald: “the letter from Dan Crowley”

Commissioner Brackett: “that’s not his writing, it’s his writing- he was asking you if it was Chris’ writing”

Commissioner McDonald: “no, he was asking me if there was a pattern and if I’d done this before”

Attorney Ingram: “this pattern of distrust toward...”

Commissioner McDonald: “this was found unsubstantiated and dismissed with no problems”

Attorney Ingram: “I disagree with you in your characterizations- let’s get to the bottom of that... did you, back in 2000, approach former Deputy Chief Kevin Foltz, in Home Depot or Lowe’s, and have a conversation with him about Chief Kaufmann supposedly trying to hide things from the Board of Commissioners?”

Commissioner McDonald: “that has been covered.....”

Chief Kaufmann: “all do respect, go to paragraph.....”

Chairman Crowley: “hang on- Chief, we’re not going to do all that”

Commissioner McDonald: “that has been covered and adjudicated- and found unsubstantiated- that’s all I’m going to say.”

Attorney Ingram: “I disagree with your characterization and I’ll specifically refer to the letter from Chairman Crowley wherein you previously accused, three to four years ago, prior to his assuming the role of Chief, you accused him, and Chief Hess, of doing very shady things- and went so far as to say that Chief Kaufmann was the worst offender of them all. Chairman Crowley reported to the Slidell City Council, who is the appointing authority to you, and as a result of the complaint which Chief Kaufmann rendered against you, arising out of the statements to former Deputy Chief Foltz, that an internal investigation was conducted and verified that you, in fact, talked about Chief Kaufmann in that manner. It further says that it was concluded that there was no proof of anything shady being done, meaning by Chief Kaufmann or Chief Hess, and that the accusation made by you was unsubstantiated. That’s what this says.”

Chairman Crowley: “that’s correct”

Attorney Ingram: “I want the record to be clear – so, there has been a pattern previously of you accusing Chief Kaufmann of acting in a distrustful manner, hiding things from the Board and going outside of the Fire District and reporting this to other people that you bump into at Lowe’s, Home Depot or the City Council meeting.”

Chairman Crowley: “any other questions?”

Attorney Ingram: “you did not consider this to be a letter of reprimand against you, delivered to the City Council?”

Commissioner McDonald: “no, I did not”

Attorney Ingram: “you and I certainly have a different appreciation...”

Attorney Ingram: “you were provided a copy of this letter?”

Commissioner McDonald: “I received it when I got the formal complaint”

Attorney Ingram: “you’ve never seen this letter before?”

Commissioner McDonald: “no, I have not”

Attorney Ingram: “so let me ask you now, I’m going to ask you to step back and place yourself in Chief Kaufmann’s position/ shoes, if you will- ask if you’re able to understand his concerns that he perceives as to be a repeated personal attack, by you, on his professional reputation, now as Fire Chief, then as Chief of Administration, and as a community leader of our City and Parish. Can you see where he’s coming from- I guess is the substance of my question?”

Commissioner McDonald: “I can see where HE’S coming from”

Attorney Ingram: “Do you see it any other way?”

Commissioner McDonald: “yeah, I could see it other ways- it’s not a personal.....”

Attorney Ingram: “from his standpoint,

Commissioner McDonald: “I can’t read into his mind”

Attorney Ingram: “given the fact that this has happened now twice, and you’ve not handled it internally initially- you talked to- it seems like your pattern is to go talk to people outside of the Fire District and ask for their opinion, or whether or not they think there is a violation before coming back and addressing it within the District- would you agree with that?”

Commissioner McDonald: “I don’t believe I have a pattern”

Attorney Ingram: “Okay. So, going back to the Firefighter Bill of Rights, even if you were able to substantiate the allegations of misconduct, by this simple statement, you realize that the actions would be declared- any discipline would be declared an absolute nullity; as a result of your discussion with.....”

Commissioner McDonald: “the question I ask to him is if that’s considered interrogation- I don’t believe that it’s an interrogation”

Attorney Ingram: “well, I would be willing to tell you -----”

Commissioner McDonald: “I would think that would be under initial inquiry”

Chairman Crowley: “I guess, just to add a question, when you talk about initial inquiry, you stated that the Board would take that action”

Commissioner McDonald: “no, the Board would take that action – if we had an Executive Session, he would be notified- he’d be here- so that would not be an initial inquiry, that would be part of the interrogation, but he would have representatives here and everything else.”

Commissioner Hoying: “Can I ask a question please? “

Chairman Crowley: “yes, give me one second. So, I guess one of the things that I think is important is delineate what the conversation was that evening- to me, that will determine whether it was really an investigation or a passing comment- I don’t think I heard anything that kind of delineates the conversation.”

Attorney Ingram: “we’re going to get to that”

Chairman Crowley: “Can we? – is okay to hear this, will that be helpful?”

Commissioner Hoying: “well, I just want to- what I’m struggling with is an informal inquiry- the supervisor of the employee can make an informal inquiry in regards to the issue. We, as the Board, the five of us here, not one of us, all five of us are the supervisors of the Chief- so, the Board then can make an informal inquiry of the Chief without going into executive session, without going into some type of formal investigation, correct?”

Chairman Crowley: “correct”

Commissioner Hoying: “okay, so that’s the point that I was trying to get clarification on”

Chairman Crowley: “it’s just a question at this point- not a matter of right, wrong or indifferent”

Commissioner Hoying: “I just wanted to know that we, as these five people, could have asked, or spoken to the Chief, informally, and asked him about this, without a formal investigation”

Chairman Crowley: “correct”

Commissioner Risley: “----- that did happen, right?”

Chairman Crowley: “what’s that?”

Commissioner Hoying: “I don’t think it did, because Fred said he didn’t talk to anybody; he talked to Chief Smith, but not to Chief Kaufmann”

Commissioner McDonald: “I did talk to Dan Crowley”

Chairman Crowley: “this is later on down up the road”

Commissioner Risley: “if you’ll let me ask my question, you can answer it with your- you’re using a couple of really strong words that can be interpreted differently. The first one that I’m questioning is “complained”- of course Chief Smith would have to clarify whether it was a casual conversation, or an actual complaint. The other is the word “interrogation”- did Chief Smith feel like he was being interrogated? So now, you can say what you were saying.”

Attorney Ingram: “the last question I have for Commissioner McDonald is, “do you think all the energy that has been generated, as a result of this, has been a productive use of taxpayer money?”

Commissioner McDonald: “for some it may, for some it may not”

Attorney Ingram: “I’m asking your personal opinion- do you think it’s been a productive use of taxpayer money- everything that has transpired since August 11th?”

Commissioner Risley: “how does it cost the taxpayers?”

Attorney Ingram: “I’ve spent plenty energy- I’m just asking for his opinion”

Commissioner McDonald: “yes”

Attorney Ingram: “I have one more follow-up- And if I understood the reason for your statement, it’s because you believe there to be a perception of impartiality to be made by Chief Kaufmann in this ad, correct?”

Commissioner McDonald: “that’s correct”

Attorney Ingram: “so if we run the ground ball out, all the way to its end, Kendra Maness has provided correspondence, which I have reviewed and told you about, that she was willing to go before a notary, and swear to, that she took artistic license with this- Chief Kaufmann never said this, this was her total fabrication. So, we run the ground ball all the way out, and we come to the conclusion that Chief Kaufman didn’t make the statement, how do you cure the perception with this investigation? How do you get to every person that may have seen this, and may have even had the same perception as you- how do you cure that- how does all of this energy- how does that fix this?”

Commissioner McDonald: “First of all, I didn’t ask for all of this energy- once you made that information available to me about Kendra, what did I send to you? Stop the executive session in the August meeting because we couldn’t go any farther”

Attorney Ingram: “But then, that was Friday- the very next meeting, on Tuesday, I overhear you telling Mark that you wanted to continue the executive session, but you wanted to wait until Chairman Crowley gets back- didn’t you say that?”

Commissioner McDonald: “I sent an email at first, and then

Attorney Ingram: “You told me in an email that it’s over, but you turn around, four days later, and

Commissioner McDonald: “Excuse me, Troy- First, I sent an email that I wanted to wait until the Chairman got back, and we talked on the phone. When we talked on the phone, you told me what you had, and I said “okay, stop it”- I have the email saying it.”

Chairman Crowley: “one thing I’d like to do, before we get too far down the road, is I’d like to get back to the content of the discussion at the Chambers”

Attorney Ingram: “we’re going there, that’s where we’re going next- my questions are done with Commissioner McDonald, with the exception of that statement, but, I’ll handle that rebuttal- I just have a couple of questions for Chief Smith- “Chief, were you approached prior to a – well, this is in an informal hearing, there’s no rules of -----, we ask that everyone speak the truth at all times- so, my question is this Chief, “did Commissioner McDonald approach you, prior to the commencement of a City Council meeting, in the City Council chambers, and ask, or make the comment to you about this advertisement?”

Chief Smith: “yes he did”

Attorney Ingram: “Had you seen the advertisement, or the endorsement, at the time you were approached by Commissioner McDonald?”

Chief Smith: “yes, I had seen this advertisement prior to him mentioning it to me”

Attorney Ingram: “Tell us what he said to you as he approached you and commented to you about this.”

Chief Smith: “This was the first Council meeting in July- it was on a Tuesday night, I walked into the Council meeting, **it had started its session** He says, “have you seen the July issue with the picture of Chief Kaufmann in the advertised section of the Slidell Magazine?” And I said, “I’m not sure. He says, “yeah, Chris is in there, your buddy is in there and there’s a picture of him in there supporting a business.” I said, “Oh, yes I did see it” and Fred says, with a big smile on his face, “I think we might have an ethics violation.” That was the end of the conversation, there were no questions asked, I just went “hmm”, because I was scheduled to take a picture in next month’s issue, to support another business asked by Kendra and Sharon DeLong in Main Street

Attorney Ingram: “Did you in fact appear in the issue of August 2015?”

Chief Smith: “yes, I did”

Attorney Ingram: “I’d like to introduce that as Exhibit G”

Attorney Ingram: “Did Commissioner McDonald ever say, “Chief, you have certain expertise in Civil Service Law, or Louisiana Ethics rules and opinions?”

Chief Smith: “no, sir”

Attorney Ingram: “have you ever had a conversation with him, previously, which would lead him to believe that you have in either area?”

Chief Smith: “no, sir”

Attorney Ingram: “In those matters, do you defer to the City Attorney when dealing with Civil Service issues? Is that who represents your department?”

Chief Smith: “yes, sir”

Attorney Ingram: “Based on the questions that he posed to you, his demeanor and his smile, did it appear to you that he had already arrived at a determination as to whether or not an ethics violation had occurred?”

Chief Smith: I would say that there was some intent with what he asked me about if it’s an ethics violation, and I didn’t know how serious he was, but I knew that it was serious enough for me to call Chris, the following day, and advise him, “hey, I’m not sure what this is about, if this is an ethics violation- I don’t see it as an ethics violation- but, Fred mentioned it to me last night, so, you may prepare yourself if he plans to go further.”

Attorney Ingram: “And you knew that you were going to be in the next edition?”

Chief Smith: “yes, I knew- I looked at, researched it, I actually ran it over by the City Attorney- he reviewed it and said, “as long as I’m not compensated, or paid for being in there, or commenting about the business there, and it wasn’t my comment, I just agreed to it as part of our community outreach and public service”

Attorney Ingram: “well, what was stated in the advertisement/ endorsement- there’s a picture of you and your wife?”

Chief Smith: “We love the food and friends at Terry Lynn’s Café”

Attorney Ingram: We love the food and friends at Terry Lynn’s Café- that’s a specific endorsement of Terry Lynn, not of Olde Town in general, correct?”

Chief Smith: “correct”

Attorney Ingram: “Did you ever utter those words?”

Chief Smith: “no”

Attorney Ingram: “Did your wife ever utter those words?”

Chief Smith: “no”

Attorney Ingram: “So what was the intent of your appearing in this advertisement?”

Chief Smith: “to support Olde Town and support the Main Street cause- trying to help bring business into Olde Town in the economy that we have- and we are using people that work in the community to help support that- free of charge.”

Attorney Ingram: "But not a specific entity"

Chief Smith: "oh, no"

Attorney Ingram: "And that's what Kendra relayed to you when she asked you and your wife, Adele, to pose

Chief Smith: "Correct"

Attorney Ingram: "I have no further questions, thank you"

Chairman Crowley: "Fred, did you have anything you wanted to ask the Chief?"

Commissioner McDonald: "The Chief, no. The only thing I will want to bring in there was there was a statement, in a discussion back and forth with our Attorney when starting executive session- Troy, there's an email I sent to you asking you to draft up the executive session, or draft up the letter, to address a possible disciplinary action. Down the line, finally you responded back- after you responded quite a few times- on Thursday, the 13th,

Attorney Ingram: "I want to make sure that there are no allegations that I've delayed in response"

Commissioner McDonald: "no, no you weren't....."

Chairman Crowley: "wait, let's do this- is this related to the Chief's testimony at all?"

Commissioner McDonald: "no, it's not"

Chairman Crowley: "I just want to make sure you have the opportunity to ask the Chief anything you want to"

Chairman Crowley: "Chief, did you have any questions for him? Do any of the Commissioners have any questions for the Chief?"

Attorney Ingram: "I apologize, I didn't quite follow your trend. I was first directed, on August 11,

Commissioner McDonald: "I agree....."

Attorney Ingram: "wherein you said that Board would be conducting executive session at the next meeting, August 18- here's the reason for the executive session- "investigation (here, let me pass this out)....."

Chairman Crowley: "Another thing we need to be mindful of is the time we have- they're going to shut down at 9:00"

Commissioner McDonald: "when you finally did respond....."

Attorney Ingram: "you keep saying finally, that's the issue I'm....."

Commissioner McDonald: "I'm sorry. As you stated in this e-mail on August 13, I have seen the advertisement and do not disagree with you statement that at first glimpse it seems to be an endorsement for Barbara's Victorian Closet- is that correct?"

Attorney Ingram: "Absolutely....."

Commissioner McDonald: "so, you can understand at that point....."

Attorney Ingram: "Absolutely....."

Commissioner McDonald: "ok, at the same time, Chairman Crowley, you agreed that there was a problem with the advertisement, correct?"

Chairman Crowley: "No, I do agree that one of the things that you and I talked about was that we may want to have a conversation with Chief and have him talk to Kendra the perception of what that picture, and that statement, could make. I don't recall ever saying that there was a problem. I told him that you and I would both sit down and talk to him and we'd let him know that as a Board of Commissioners that there may be some perception, that we've heard from other folks, and we would want him to get in front of it.

Commissioner McDonald: "and I came back to you, after you made a statement similar to that, I don't remember the exact words- but, I came back and said, I think this is something that instead of you going to the Chief and talking about it, we should bring it up in an executive session and get the Board to look at it and see if there actually is a violation here- we don't know- and, you said "agreed", and then that's why it started this whole thing off. On August 10, I asked you if we wanted to put the executive session on the agenda"

Chairman Crowley: "Right- I remember in our conversation that I made mention that I had no intention, myself personally, of recommending executive session because I didn't believe there was any ethics violations- I also shared with you that if a Commissioner wanted to go forward on something, they certainly have every right- and that's when I left out of town for an unfortunate death in the family- and because, you know you felt compelled to go forward with it, and that's when I asked you to sit in as Chairman and then go forth and do what you see fit with it."

Commissioner McDonald: "okay, your words were, "I will not return in time for the meeting, I will ask that you assume the role as Chairman for the August meeting- and all associated actions required, to include the below item, here brought forward" – which was the executive session."

Chairman Crowley: "right, so do what you would as the Chairman"

Commissioner McDonald: "okay, so you condoned the executive session"

Chairman Crowley: “if that’s what you feel as the Chairman, than, yes”

Attorney Ingram: “May I bring up one point, since you raised it?”

Commissioner McDonald: “yes, sir”

Attorney Ingram: “When you first directed me, on August 11, it was an email- on the bottom of page 1- you say, “Troy, we are going to conduct an investigation of possible disciplinary action toward a Fire Fighter, for the possible violation of “Code of Ethics Section 10.1” (impartiality), you go on the say, “Troy, we need you to draft the following two items: 1.) A formal letter to inform the individual that we will be discussing this action and they need to be duly informed (required by law). 2.) A written document of a “verbal reprimand” of the individual as the discipline for said action.- you then provide the background- “Here’s the background, wherein you talked about the “Slidell Magazine” and say Dan and I have discussed this, while we don’t believe this fall into the category of a violation of the Louisiana Code of Ethics, because we don’t believe there was no financial gain, but we do believe this does not show the impartially that is described in the FD1 Employee Handbook Section 10.1- I responded by saying that I have no problem preparing the letter requested to Chief Kaufmann, but your suggestion that I prepare a “verbal reprimand” suggests that you have already decided the punishment, to be needed out before the hearing begins and before the Chief is afforded an opportunity to present his side of the case, possibly mitigating factor.”

Chairman Crowley: “I’d just like to ask, for point of clarification, when did we talk about having him prepare a letter of reprimand?”

Commissioner McDonald: “We talked about it that time- you said at worst case would probably be a letter of reprimand- that’s what you had said at that discussion, and that’s why I said that. And, at the same time,- I’ll let you go ahead and finish Troy.....”

Attorney Ingram: “I’ve cautioned Chief Hess about predetermining course of action until all the facts are presented- do you wish to reconsider- and, to your credit, you said, “you’re right, go ahead and write the letter to Chris- proceed as you have suggested”

Commissioner McDonald: “Exactly, because I was trying to do it in time, in case we do that route.

Attorney Ingram: “I’d just like to attach that email, that series of emails, as Exhibit H. And, the one point I didn’t bring up, and I apologize-- as a result of your discussing Chief Kaufmann with former Deputy Chief – Asst. Chief Foltz, given the fact that you were prohibited from participating in the selection committee for the Chief position....”

Commissioner McDonald: “Actually, I was not- I voluntarily recused myself”

Attorney Ingram: “okay, thank you- I have nothing else at this point”

Commissioner McDonald: “I have nothing else”

Attorney Ingram: “I just want to suggest- I ask Chief Kaufmann if he has any closing comments- I’m not going to solicit any evidence from him, I think he should have the right to speak to the Board”

Chief Kaufmann: “I appreciate that, I have many comments.... One thing that is disturbing and alarming to me is that we’re sitting here today, and this is the second incident. This past Saturday, I’m going to put this award on the table, because I really wasn’t bringing it to the meeting, but, someone in this Parish nominated me for Alliance for Good Government Civic Award- that I was honored and proud to receive Saturday night, in New Orleans, for St. Tammany Parish. And, if you don’t think, Fred, that your actions/comments are detrimental to me personally, and this fire district, you’re wrong. The three Commissioners that served on that hiring committee- you go the right person for the job; because I committed to ya’ll to run this fire department. I love what I do, I am passionate about it. I happen to also commit to ya’ll my involvement in this community, as a community leader- committed to building relationships. I think I have done just that. I can’t change that the last 12-14 years I have been involved in the community. I actively serve on four boards, involved in probably ten different programs- I’m at an event at least- probably once a week, sometime three to four times a week. I think I embrace the role as community leader to do whatever I think is right to represent this community, both City and Parish. I conduct myself as a professional. I put the past behind me. And you’re right, we work probably dozens of meetings together. I put the past behind me and moved forward, when I feel I was attacked the first time. I’m going to use the word “shady”- because when I read this letter again, when I read it this most recent time, it upset me as much as the first time; because that’s not who I am- that questions my integrity, that questions my values in life, and that’s not what I’m going to be recognized as. I do believe it’s a personal attack and I’m questioning Commissioner McDonald’s continued service on this Board. He doesn’t appear to be concerned about my wellbeing as Fire Chief, as a community leader, or any negativity brought towards this district- having this Executive Session in open meeting wouldn’t have been my choice, to protect the district. I feel like there’s an action by Commissioner McDonald that he is looking for- I’m assuming he thought he caught me, is the way I feel- no different than in the past when you did not serve on the Board, but as a member of

the audience- that you are going to find something wrong that I am doing, and that's not how I do business- that's not who I am. Talk about damaging, when I spoke to Kendra Maness, her comment was, "well I guess I'm not going to be able to take pictures of you anymore. So, that's just a fraction of what I'm talking about in damaging. I just made 50, I'm not 150- I am 150% committed to this Fire District and this community. I am involved in things across the entire Parish and State. So I do take it personal, it is detrimental to my current status and this community- and as your Fire Chief- and my future. The district pays for his actions if we're less involved in the outreach, less involved in giving back. This Fire Department is looked at as a positive public agency and government agency in this Parish. I thought we were working together to make that happen; I feel like we're not together. It is alarming, Chief Smith said, that you had that big smile on your face. That only confirms to me what I believe and what I stand by today- that is, Commissioner McDonald seems to be looking for something. I didn't do anything wrong, I know my rights, I know them well- I've dealt with that for the last nine years and I was asked to support the City of Slidell Historic Antique Association- that's what I was asked to take a picture for. That is the same Olde Town area that the City of Slidell Council members, who's appoint your represent. I think that's alarming- that we're all working to build a better community, a better fire department, a better quality of life- and we're working to work against that. I'm hurt, I'm angered- that Commissioner McDonald didn't call me, regardless of what the process is. If the contact would have been the Chairman, the Chairman call me- I don't think I've ever stopped a conversation with any Board of Commissioner, since I've been working here. I would have been glad to explain the process. And, I have wasted time, energy- instead of doing something positive and proactive, in some cases, dealing with this. I feel like it's undermining to me as the leader of this Fire District- it goes against every value that I stand for, everything that I've tried to present in the last year and a half, to put value and integrity back into Government- transparency. I worked along with Commissioner McDonald to make some of those things happen, and in one brief few minutes, there's an accusation, or perception, that the Fire Chief is doing something wrong. I don't know what you intended on accomplishing, other than to get me- obviously, I found out tonite- a "written reprimand"- which is wrong, I'm glad you pointed that out Troy; putting the crime on paper before you know the details are. I ask ya'll to discuss it- I fully expect some type of action to be taken, because this is the second time, it's not the first time. I'm not going to go forward, as your leader, this community leader- and be concerned that I'm going to have someone looking for me to make a mistake. I'm just not going to work under those conditions. I'll recap by saying- you went beyond by making a call to the Louisiana Board of Ethics, the questions or comments to Chief Smith- there was research done, and there was research done in the past that led to this first incident that we never did surface. I'm just concerned that it's not the end, there will be a next time. That is why I wrote the complaint, because I am putting it on the record. I'm not working under those conditions. I am fully committed to do the right thing, and speak the truth and work with integrity, representing this Fire Department. This is an opportunity, this is an honor to do what I'm doing- most people don't get this chance- and to have my position, my integrity, my values attacked- I take offense to that. I don't have any further questions or comments.

Chairman Crowley: "Any questions or comments for the Chief?"

Commissioner McDonald: "No questions, just comments. We work very well together, it's never personal and it wasn't an attack- it was a professional inquiry to make sure we are holding everybody to the highest integrity. As far as executive session, that was a discussion that Dan and me had and okay, that's where we're going to go – we can do it- like when I asked in an email if we can do that, I got the impression from your response back to go ahead and have an executive session in the August 18- to open the investigation to allow the Board to review all of the information and to make a decision whether it was nothing, or at worst, a verbal reprimand. I still believe that you want to call it a pattern- I don't believe there is a pattern. I know there's a lot of people against that, I don't believe there is a pattern.

Chairman Crowley: "okay, any other questions?"

Commissioner Risley: "I have a comment. I think I know both of ya'll really well, I think I recognize both of ya'lls personality profiles- I genuinely don't think that Fred means to come across with malicious intent. I think he genuinely feels like he needs to hold people accountable- he has shown a pattern of that at the City Council. So, I'm going to defend him in that point. I also know how passionate that you are, Chris, and I hate that it's come to this point where you're hoping to seek some sort of action because I fully would expect Fred to come back with some action, just based on the history of what happened to him repeatedly, at the City Council, where that was another Administration- there's just so much history from in the past. I called Dan, begging his to please resolve this. I called Troy, and said, "Troy, let's fix this, let's- I would have liked to see both of ya'll get in the room and work it out between ya'll- because ya'll bring being so much value- so, I would just ask if we could just let ya'll work it out

instead of us having to go through some sort of formal action against a Commissioner, because that speaks volumes- that really does speak volumes.

Chief Kaufmann: “It absolutely does. And, I like your word “accountable” because my plan, since day one, has been accountability. What’s the 3 letters? Accountability, Communications and Training. I hold myself to the higher standard in this Fire Department.”

Commissioner Risley: “I know that you do”

Chief Kaufmann: “And I expect him to be held accountable as well, for his actions.

Commissioner Risley: “That is your personality profile, but if you were to pull out that Meyers-Briggs, you would see that Fred’s behavior is just perfect in line with what his Meyers-Briggs is. I think the world of both of ya’ll, I just would hate to see- talk about taking a step back, this department would definitely take a step back if we wanted to move forward on any kind of formal action against a Commissioner.

Chief Kaufmann: “The accountability- and when I tell you- the probably most detrimental is the undermining of my leadership, because his actions, no different than the e-mail, that I corrected, and I’m assuming you claim to be an expert on Robert Rules- you can’t just put a firefighter’s executive session, you have to advise those people. Stupid me, I just didn’t get advised yet hat is was me- when I said you can’t put that on the agenda, without notifying the employee. I’m the Fire Chief and didn’t know who it was yet. I done think I’m responsible for Fred’s personality profile. And, I don’t know what you meant by him coming back- if that’s a threat- you said that he would come back at me- I welcome it.

Commissioner Risley: “no, I’m just saying

Chief Kaufmann: “hold on- I’ve done nothing wrong- I’m the victim here. First of all, when you heard Chief Smith say he called me, he called me the next day. If I wanted to attack Commissioner McDonald, I would have addressed him the next day. I gave him, what I consider, a pass- because if he didn’t bring it up, it wasn’t worth my breath. I was shocked when I saw the agenda with the executive session, and Troy Ingram calls and says he has to see me. I get blindsided with a letter handed to me. You understand how that makes me feel? I open a letter, he makes me sign it- I turn it over that I got served.

Commissioner Risley: “Been there, done that”

Chief Kaufmann: “Well, I don’t think it’s funny”

Commissioner Risley: “I’m not saying it’s funny”

Chief Kaufmann: “And I’m not going to come to work and do what I’m doing in this community- 90,000 people, 18.3M budget, not alone, the four non-profits that I’m involved in all of their budgets- be questioned that I’m shady, I’m underhanded and I’m unethical. And I tell you, I’m prepared for whatever challenge that may be. I’m willing to put my record, my experience, my involvement- on the table. 26 ½ years, 6 positions- I love what I do- I didn’t nominate myself for this, by the way, Saturday night- I was humbled and touched by that, and that only fuels me even more, to know I’m sitting here tonite, defending myself for supporting the Olde Town Antique District. You ought to be ashamed of yourself.

Chairman Crowley: “Comments?”

Commissioner Hoying: “Partially, as an outsider, although I am an insider- I am a Board member- So Fred, I’m concerned, first of all, that you don’t see this as a pattern. I’m looking at this, and based upon the letter I wrote, which is a clear review of you- we should never voice our personal opinions outside the four walls of all those involved with the issue at hand, and certainly never use our decision to publicly undermine any decisions or policy, at all. This was clearly, and perhaps you didn’t see it, as you stated- I’m concerned that on one hand, you see yourself as the Chief’s immediate supervisor, in order to speak with Chief Smith. But, you don’t consider him your immediate supervisor to do an informal inquiry of Chief Kaufmann- at least get an understanding of the facts, before you proceed. I’m concerned that I heard you talk about your conversation with the Chairman, and your perception of that conversation- then hear what the Chairman had to say- it’s difficult for me to understand how you interpreted what he said as being in agreement with you. I thought he was very diplomatic, but it was pretty clear that he was saying he was not in agreement with you. Do I think you’re a bad guy, no, I think you’re a good guy- I think that you have good intentions in regards to the taxpayers and the citizens of St. Tammany. But, I’ll tell you, it does look a bit personal to me. Now, I don’t know that for a fact, I really don’t know what your relationship is with – I don’t know what your relationship was with the previous administration at the City Council meetings or a board meetings, or whatever. I have some concerns.

Chief Kaufmann: “I thought I earned some respect from Commissioner McDonald since I became Chief, and working with him; and that I question today.

Commissioner Brackett: “I’d like to echo what Jim said. I’m very concerned of your thought process in this. I think there is a pattern and I’m not only considering the pattern that’s happening with this fire district and against different administration, I’m also considering your actions that you’ve done in other areas- such as City Council meetings, and other stuff like that- that has been told to me. I don’t know if it’s true or not, but it seems to be- it kind of goes into all that. I know that’s not part of this, but it is part of my thought process. The fact that you had conversations with Chairman Crowley, and your reasoning from that, I’m with Jim- it doesn’t add up. I felt like you were going after him, there for a second- and putting his integrity in question, because of some of your statements. I think you do mean well, but, I think you need to check what you say some times. I’m concerned with this Board, in general, because this has now been put on us. It’s not just within all of us here, it’s everybody on the outside, who know of this situation. I think some action needs to be taken, but I’m just not sure what that’s going to be- and it needs to be done by the Board and all. One last comment I would like to say- my wife did one of those ads, and if you think she’s unethical, I really have a problem- but that’s on a personal note. That’s all I have to say.

Chairman Crowley: “The only challenge I have- I mean, you and I have worked together now for like three years- the one pattern that I’m struggling a little bit with – there have been quite a few times that you and I have discussed things, or things have been discussed here, and I just felt like your perception of what my intention was, on what I talked about. We’ve had to clarify that, a bunch of times. I remember a phone conversations, where I’ve said to you, over and over, “Fred, I’m telling you.” I have an appreciation for who you are, what you do. I think we’re there now, it took a long time to get there, because I don’t think you heard what I was saying- but, I can think of many times where an action, or statement that was made, was perceived by you very different than what was intended; until we had a chance to talk it out. I know, when we talked about this, I can tell you that I was pretty specific about I didn’t think there was any ethics violation. And, I had no intention of pursuing anything; however, it is not my place, as the Chairman of Board, and I’ve said this every single time, I’m not as much as even a voting member. The Commissioners up here run the show. So, never would it be my position, or within my authority, to say you can’t do it, or you shouldn’t do it, I’m just telling you that I didn’t there was anything wrong and if a Commissioner wishes to discuss it with him, I’d be happy to bring it up and make it available for them to discuss. That’s my responsibility. But, I shared with you, on my own, how I felt. Specifically, about it. So, when you asked him to put it on executive session, that when I thought that – well, I mean if you feel that strong about it, I’ll have you sit as the Chair because I didn’t think it was fair to thrust it upon anybody else that really hadn’t discussed it or anything. That’s why I left it for you to handle as you see fit, because you’re now the sitting Chair. I know for a fact, Fred, that you do mean well- you and I have talked about things and I don’t think your intentions are malicious and bad but, unfortunately you and I both know, from our experiences in being in the Navy and being Chief’s, we’re all accountable for what we do. And, I guess I do have some concern that- I don’t even know that it’s a concern- I don’t feel like you have a lot of confidence in the process as a whole. I feel like there’s sometimes you’re looking for that conspiracy that might be there, and that’s been throughout the three years. I don’t know that there’s ever been a conspiracy since we’ve been here. I would admit that there’s probably some administration and Board relationships that were- that they struggled, but I’m telling you, if I was sitting here today, and I thought there was one thing that I thought was inappropriate and wrong, I’d call whoever out on it. But, I haven’t seen it yet. I just don’t know why you still feel that way. I did think there is some sort of communication difficulty between what you and I talk about and what you perceive, and I haven’t figured out how to get past that. That’s one challenge I think I still have to work on to try to get past. I do believe you probably heard some of what you said, but I can tell you that specifically, my intent was never to go forward, but if you wanted to talk to Chief, I’d be happy to.”

Commissioner McDonald: “All I’m going to add to that is that when you came up to me and said, “I agree, it does look like there might be a problem” - that’s what you said when we talked about- when you saw the article and you talked to me “I agree, it does look like there might be a problem there”- and then we both, almost simultaneously, but we do not believe it’s a Louisiana Code of Ethics violation, it’s probably internal.”

Chairman Crowley: “I would agree with you with that- and I’m going to agree with you on that statement. I would agree with you on the same statement Troy made earlier- where you open that magazine, and you see the picture, the initial impression could be, Chief’s endorsing this.”

Commissioner Risley: “And it’s only because you were in uniform, because I did get a couple of calls.”

Commissioner Hoying: “So, It did clearly state Olde Town vs. Barbara’s Victorian Closet”

Commissioner Risley: “yes”

Chairman Crowley: “I would agree with you that I made a statement that said, “looking at this picture, it could be perceived, and at minimum, if you want to have a discussion with Chief, and say “hey, you might want to get in front

of this, this perception could be out there"- I agree with that, absolutely. But, never to an executive session, and never to a letter of reprimand, or- absolutely not."

Commissioner McDonald: "We can go back and forth- I can remember when you did say about a discussion- I said "it should come from the Board, don't you think?"

Chairman Crowley: "I absolutely would say yes- it's not my place to do it.

Commissioner McDonald: "So, when you do an executive session, you do the investigation- see if it is. And the last comment said, at worst, probably a letter of reprimand. And I agree with that. At worst. That's why I said it the way I did. That was the worst case, if it came to that.

Chairman Crowley: "Okay"

Commissioner McDonald: "I don't believe anybody else- I can't sit here, to your point Troy, about your wife and to Chief- I can't sit here and judge them on internal ethics violations. The only thing we can judge, as Commissioners, for internal, is for the Fire District. And we said, right there, that we did not believe it was a Louisiana.....

Commissioner Brackett: "I'm sorry, that's a cop out"

Commissioner McDonald: "that we did not believe it was a Louisiana Code and that it could violate our own internal.....

Chairman Crowley: "Let's go back to what the real point is, I think that's being missed here. At some point, you had a conversation with Chief Smith."

Commissioner McDonald: "to find out if it was"

Chairman Crowley: Right, but Fred, the point is- we agreed the last time we talked about this other letter that if we had questions or issues that the Board needed to relay, it would come through the Board- we would not talk outside to other folks, do you remember that?"

Commissioner McDonald: "that's correct"

Chairman Crowley: "So, why would you go to Chief Smith, instead of us, first?"

Commissioner McDonald: "I wanted to know if I needed to bring it to you guys- like I said, I thought he was a subject matter expert on ethics violations."

Chairman Crowley: "Did you ask him if he was?"

Commissioner McDonald: "No, I didn't- it was my impression."

Commissioner Hoying: "which concerns me from a situational awareness perspective- if I knew that Chief Kaufmann and Chief Smith were friends, why would I go to one of Chief Kaufmann's friends and ask that question?"

Commissioner McDonald: "First of all, I didn't know that"

Commissioner Hoying: "oh, you didn't- okay. I see them at all kinds of charity events, shoulder to shoulder- I just assumed that would be the case.

Chairman Crowley: "I guess the concern I would have is why would you have that discussion with him, in the Chambers of the City Council vs. can I come meet you at your office- have a private discussion?"

Commissioner McDonald: "this was in passing"

Chairman Crowley: "Right, but those are the things that are concerning- to me, that's a judgement call"

Commissioner Brackett: "Fred, you represent the entire Board in any and all of your actions, when you talk about Board related stuff, or fire related stuff. I represent these people when I make comments in the public. I don't get it- why would you do that? - Knowing what happened the first time- that's the part I don't get. And you sit here and say you don't see it that way. That is totally concerning to me. That you take it upon yourself to represent this Board when you make passing comments, in passing. Comments are comments, and who you make them to- you represent this Board 24/7 when you make comments like that. I represent the United States Military when I make comments, such as that. Integrity is being questioned here. Bottom line. That's my thought. And, it's not right.

Chairman Crowley: "I appreciate your opinion. To me, it's not integrity that's being questioned- it's more of the thought process on good judgement vs. bad judgement-what to say, when to say, and how to say it. Again, I don't think there was anything malicious done. But, I don't believe that there's some sort of filter that hasn't happened, that says, "this isn't a good time or place to have this discussion". Regardless of what your intent is, that's not the right place to do or say it. And both those cases, in my opinion, were just bad judgement. And, that's just from me personally. For me, I would feel a whole lot better- at some point, if I heard you say "that was a bad joke, I shouldn't have done that- it probably wasn't a good call on my part." We've all had those situations- I don't think there's a person in this room that hasn't had to step back and say "yeah, I probably didn't think that one out all the way through." I haven't heard any of that. Not that you have an obligation to do it, but, that would be my concern."

Chairman Crowley: "Any other questions/concerns?"

Commissioner Hoying: “What’s difficult is how much I like you, Fred- and really wanted you to succeed and have the filter like Dan talks about to be able to understand the time and the place to use situational awareness to use the obsec – may be a better term for it, in regards to the Navy- to filter what you say and when you say it- and to understand if you perceive yourself as the Chief’s immediate supervisor, in speaking to Chief Smith, then you should have perceived yourself as Chief Kaufmann’s immediate supervisor and did an informal question, asking him informally about it. That’s the situational awareness- judgement thing- that concerns me. Are you well intentioned? You’re 100%, 110%, 1000% well intentioned. I don’t perceive what you do as malicious. Others who are personally affect might see that, I don’t see it. I don’t see it that way at all.

Chairman Crowley: “Okay, so I guess the question, at this point, is where do we go from here?”

Commissioner Brackett: “I want to know what our options are right now- what a list of options would be- other than possibly a reprimand- I don’t know.”

Commissioner Hoying: “Well we wouldn’t do that, we would submit whatever the findings to the City Council, who is the appointing authority- take whatever action they would see fit. But, I want to go back to something Commissioner Risley said earlier- the best thing for this Board, my perception, and I think in hers, is that if something could be worked out between Chief Kaufmann and you, Fred- to solve this, resolve it- once and for all- come to some type of common understanding, some common ground so that we wouldn’t be here, talking about it a third time.

Commissioner McDonald: “I’m agreeable to that”

Commissioner Risley: “Can I ask you a question? Do you think that Chief Kaufmann does a good job?”

Commissioner McDonald: “Not only do I agree, but I stated so in the public meeting, and in front of his subordinates. In fact, I gave him real high marks on his eval.- so yes, I think he does a very good job. In fact, as Fire Chief, in what I’ve seen, he does a damn good job, point blank.”

Commissioner Risley: “Do you have a high level of trust in his decisions?”

Commissioner McDonald: “yes”

Commissioner Risley: “Do you feel the same towards Fred?”

Chief Kaufmann: “I did, up until this action”

Commissioner Risley: “Is there any way that either, or both of you, consider maybe having Troy as a mediator to just try to work past this? Because like I said, for what you’re wanting us to do I think would be detrimental for the district.”

Chief Kaufmann: “As Commissioner Risley said it would be detrimental to the district, I also feel his actions are detrimental to me because I have five more years to work here- and the rest of my life to live here. And, I was amenable, just for the record, but not one time, since we stopped discussion, did he apologize to me. I was willing to do that, Commissioner Risley- it’s off the table right now. I want you to consider a vote of no confidence to give to the City Council- because, if he would have apologized to me tointe, I could have considered that. I was waiting until the end of this hearing, because that’s sad. He did not once take ownership- you said it, you said it, and you said it- he did not take ownership for his actions- not one time- actually, he’s defending himself. That is unbelievable. Ya’ll tell me if I’m wrong today- tonite. A simple apology that didn’t even happen tonite.

Commissioner McDonald: “I didn’t give an apology.....”

Chief Kaufmann: “Because you think I did something wrong”

Commissioner McDonald: “No.....”

Chairman Crowley: “Chief, that’s enough of that- please”

Commissioner McDonald: “I didn’t give an apology because at the time, I didn’t it was appropriate to give an apology just to stop it all down- I wanted to get it all out, get it all done, get everybody’s opinion and everything else. As I sit back here in retrospect, I can see where you can see where a pattern is- and I can see where you’re concerned in listening to people, I can see where you might do it. I don’t understand when they look at a pattern, but they don’t look at the eval.- the eval. I graded Chief Kaufmann on. As far as professional, like I said before, I think he’s doing a damn good job...”

Chairman Crowley: “Where does the struggle come in then?”

Commissioner McDonald: “At the time of when I saw the article, that it looked like he was – he holds his people to a higher regard/level, expertise- and I saw that as, you hold your people to a higher expertise, but you didn’t. And that’s where my struggle was. So, like we talked before, the worst case is, “Chief is it happens again, or of it did happen and you saw it, let us know- so we can stop. Or, don’t do it again. I am not, and never was intentially ever

trying to get rid of the Chief for this. The idea was impartiality, it's a minor offense. But, just to get out and let us know.

Chairman Crowley: "You're going to have to admit though, when we had our initial conversation, I basically had to talk you off the ledge because you were convinced that there was a"

Commissioner McDonald: "I was convinced that the Board should communicate that to him, not you as one person. That was my goal....."

Chairman Crowley: "My point is, you were already convinced there was a wrong doing"

Commissioner McDonald: "I said the Board needs to do the investigation. I had a feeling there was a wrong doing, but I can't speak for the rest of the Board. That's why I wanted the executive session- the Board could have the discussion and say, 'you know Fred, you're off base here, it's not'"

Chairman Crowley: "Quite frankly, I think everything you have said is fine, I don't disagree with anything you say until the point you went to Chief Smith at that meeting. And said what you said."

Commissioner Hoying: "The other thing is, Fred....."

Chairman Crowley: "To me, that's where the breakdown is"

Commissioner Hoying: "The other thing is, an informal inquiry, before you even get to an investigation- the supervisor can do an informal inquiry- that may not be the exact words that were within the policy"

Attorney Ingram: "Immediate supervisor"

Commissioner Hoying: "Immediate Supervisor- which would be the Board."

Attorney Ingram: "not one individual"

Commissioner McDonald: "An informal inquiry does not mean that you have to communicate with the person with the alleged offense- it can be with anybody, to find out more information."

Commissioner Hoying: "no, because that becomes an investigation when you go to outside parties. When you talk to the individual, when you say, 'here's what we perceive by this- tell me what transpired here....."

Commissioner McDonald: "I read it differently"

Chairman Crowley: "Let's assume that that's different, but when we had the last incident, we all agreed that no one person on this Board would carry out any type of action without discussing it with the other ones, especially if it had to do with the Chief, any of the senior administration - that we, as a Board, would work together, so that doesn't happen again. And, I heard you state, tonight, that you were acting as the Chief's immediate supervisor when you talked to Randy Smith. And you did that without any consultation of anybody else on the Board. Correct?"

Commissioner McDonald: "you're right"

Chairman Crowley: "That's what concerns me. So then when it comes to have the discussion with the Chief, did you talk to the Chief about it at all? "Nope, that's for the Board to do- why is that you could do it for Randy Smith, but you couldn't do it for Chief? And why would you do it at all, without the Board, when we agreed we shouldn't?"

Commissioner McDonald: "I was just trying to find out more...."

Chairman Crowley: "you're missing....."

Commissioner McDonald: "I understand what your point is, and I was just trying to explain my reasoning."

Chairman Crowley: "So, that's the reasoning that we're struggling with, because none of us, not one of us should have a conversation with anybody else without vetting it through the Board. There's the concern. And we also agreed that whatever we have for concerns, we go out and do whatever - just to save on confusion, or anything else- it would funnel in and out, from one place to another. You can't pick and choose when you want to use that and when you don't"

Commissioner Hoying: "my concern is the judgment- the filter and the judgment- that led you to do stuff like this has led you to do this very same thing in the past- at least my perception from reading that letter that was issued to the City Council from the Commissioner. That's really my bottom line concern, Fred."

Commissioner McDonald: "I understand"

Chairman Crowley: "So right now, I guess on the floor is for some sort of recommendation- something from the Commissioners."

Commissioner Risley: "I made the recommendation that they try and get together and talk about it and get a better understanding of each other; maybe things might be different- maybe not misconstrued - I don't know."

Chairman Crowley: "So, I don't know if that's something we need to put to a vote, for the action-or is it discussion- I don't know too much about how to formally accept that....."

Commissioner Brackett: "Are you making a motion for that- are you"

Commissioner Risley: "I'm throwing it out to see if anyone else agrees with me on that"

Commissioner Brackett: I think we need to do some kind of action and I'm to the point where a vote of no confidence- a letter of reprimand sent to the City Council....

Commissioner Hoying: "a statement of fact to the City Council – let them make the determination"

Commissioner Brackett: "Well, that's already been done though, Jim, with the letter from the Chairman."

Chairman Crowley: "I don't know that we have any jurisdiction to do....."

Commissioner Brackett: "I think there's a big problem here, I'm just not sure how we can address it. We are doing it in a public forum, which is one step

Commissioner Hoying: "So, correct me if I'm wrong, the appointing authority- any action would have to be taken by the appointing authority- all we could do anyway is notify them of the events and let them make a determination on how they are going to handle it.

Attorney Ingram: "I'll have to research. And, I recall there are certain grounds for removal of a Commissioner and one of – Commissioner Risley actually initiated an action against Commissioner Shannon Davis, many years ago, because of his....."

Commissioner Risley: "Not Shannon, Bud- I never initiated anything against Shannon"

Attorney Ingram: "I was there- I defended him"

Chairman Crowley: "Let's forget the name, it's irrelevant. An action was done....."

Attorney Ingram: "for missing so many meetings"

Chairman Crowley: "okay"

Commissioner Risley: "No, it was Bud Kline, the Chairman"

Chairman Crowley: "That's irrelevant- my point is, is there any..... That's irrelevant to this"

Attorney Ingram: "I think- I don't know"

Commissioner Hoying: "If it were the Chairman, the Chairman works for the Board- is appointed by the Board, so we're the appointing authority, so that would be proper to initiate an action in that case, if that is what we're talking about. I believe, and I would like to have an opinion on what our next steps are- what we can do. And I believe, my understanding is that we would have to refer it back to the appointing authority."

Chairman Crowley: "yes, I'm not sure that we have any authority to do a vote of no confidence"

Commissioner Hoying: "It would just be a matter of a statement of fact to the appointing authority and let them do what they see fit."

Commissioner Brackett: "Troy, can you gather that for us?"

Attorney Ingram: "yes"

Commissioner Hoying made a motion that we table this for further discussion after receiving a legal opinion of what our authority is. Commissioner Brackett seconded the motion.

Commissioner Brackett inquired as to how fast Attorney Ingram could get the information to the Board.

Attorney Ingram stated that he would get it, as fast as he can.

The motion carried with Commissioner McDonald abstaining.

Commissioner Brackett made a motion to adjourn. Commissioner Risley seconded the motion. The motion carried unanimously.

The meeting adjourned at 9:20 p.m.