

**SUGAR GROVE FIRE PROTECTION DISTRICT  
BOARD OF FIRE COMMISSIONER'S MEETING  
OPEN MINUTES**

**DATE:** April 25, 2011  
**TIME:** 5:05pm  
**PLACE:** Sugar Grove Fire Station  
**Commissioners:** Richard Sander, President  
Ross Scimeca, Secretary  
John Pilkington, Commissioner

Called to order at 5:05pm

**Roll Call** – all commissioners present

Tabled approval of minutes until next meeting.

Attorney Flaherty presented correspondence to the commissioners for their review – a letter and an appearance filed by Thomas Radja, who is representing Firefighter Noss, a request to continue the hearing on the motion to suspend without pay, a written response filed by Mr. Radja on behalf of Firefighter Noss to Chief Kunkel's request to suspend without pay pending the hearing.

Other parties sitting at table along side the commission... Attorney Shawn Flaherty, Attorney Jim Knippen, Fire Chief Marty Kunkel, Attorney Thomas Radja, Firefighter Jeff Noss.

**Argument –**

Knippen - Recited case statute Chapter 70, Section 70516.13(b). Knippen reiterated the allegations and based on sworn testimony of FF Noss, there is substantial evidence of misconduct.

Radja – Expressed financial hardship, allegations have to do with off-duty conduct, innocent until proven guilty. Nothing suggests he cannot continue to perform his job well and get paid for it.

**Rebuttal –**

Knippen – oral motion to submit original certified copy of interrogation transcript to commission for review. It is off-duty conduct, but the law in Illinois that off-duty conduct can justify termination if that conduct is severe enough. Allegations of a fundamental breach of public trust.

Flaherty - questioned if making a motion to enter the transcript into evidence at this time?

Knippen – Yes, specifically, for the commission to view the entire transcript, particularly pages 25-30.

**Response –**

Radja – object to the motion, based on hearsay grounds and foundation.

Based on FOIA requests by public, with respect to the pending criminal case, accepting evidence could have an impact. If board wants to see it and allow it in, over the objection, ask that it come in under a protective order.

Knippen – Commission has authority to take it into Executive session, which will hold it with the protection..

With regard to whether or not this constitutes hearsay, formal rules of evidence are not applicable before this commission.

Radja - while the rules of evidence don't apply, it is still a hearsay document; the rules of evidence are still generally applied in administrative hearings such as this. Apply the rules of evidence here and the rules of fundamental fairness and request to deny the chief's motion to accept the document at this time.

Flaherty – (to commissioners) do you feel that those seven pages that have been identified by Mr. Knippen would be helpful in making the decision?

Sander – it would be helpful. The other two commissioners agreed.

Flaherty – Make a finding that the board would deem it helpful, granted at this time the motion by chief to provide a portion of the transcript, namely Pages 24 through 30 and the certification page from the court reporter, excluding the remainder of the exhibit at this time, and making the finding that the parties should enter into a proper protective order that the parties believe would shield its release to outside parties at this time.

Knippen - the order read that the document shall only be submitted in executive session deliberation and that it not be provided to the court reporter for purposes of the record at this point.

Radja – do a joint motion that the board review this evidence in executive session so that it is confidential and exempt from disclosure.

Flaherty – so ordered.

It was motioned by Sander and seconded by Pilkington to:

‘Go into closed session to discuss the disciplinary and personnel issues.’

Motion Carried

It was motioned by Scimeca and seconded by Sander to:

‘Go into open session.’

Motion Carried

It was motioned by Sander and seconded by Pilkington to:

‘Grant the chief’s motion to suspend Firefighter/Paramedic Jeffrey Noss without pay for a maximum of 30 days effective April 26, 2011.’

Roll call vote – Motion Carried

Flaherty – Any agreements on discovery issues or other pre-hearing issues? Do we have any motions to entertain?

Radja – Would like the recording to be deleted, as if was left on during communications with my client.

Knippen – has no objection.

Flaherty – it is ordered that the tape be immediately destroyed and that the court reporter provide a PDF copy of the entire transcript to the District’s secretary.

Radja – will be submitting motion for production of documents and a request for subpoena’s to issue by the commission, in order to properly prepare a defense, asking to continue the hearing date set for May 5.

Flaherty- as for subpoena’s, get names and cc Mr. Knippen, as long as no objection, will issue subpoenas and have Mr. Sander sign.

Radja – respondent responsible to serve the subpoenas.

Flaherty – For this hearing, we will be the party responsible for serving.

Flaherty – for continuance, that is the 30<sup>th</sup> day, would need statement from Mr. Radja on record, they will waive 30-day rule.

Knippen – No objection to the motion, would want waiver of 30-day rule.

Radja – the respondent would waive the 30-day requirement to have the hearing.

Flaherty – with that waiver, inclined to grant the motion.

Sander – the next meeting will be on May 25 at 6:00pm for discussion of disciplinary measures.

Flaherty – it will be for the hearing. Let the minutes reflect the date set for May 5, at 5:00pm has been stricken by agreement of parties.

Knippen – ask the commission to enter an order today continuing all subpoenas returnable May 5 to May 25.

Flaherty – any objection?

Radja – no objection.

Flaherty – so granted. Anything else from either side?

Knippen – nothing

Radja – nothing.

**Public to address the Board – none heard.**

**Any other matters that may lawfully come before the Board – none heard.**

It was motioned by Sander and seconded by Scimeca to:

‘Adjourn the meeting at 6:08.’

Motion Carried.

Respectfully submitted,



Ross Scimeca