

January 11, 2022

On January 11, 2022 the Millwood Board of Fire Commissioners held the Annual Organizational Meeting at 7:00 pm via video conference at Station No. 1 located at 100 Millwood Road in the Town of New Castle. Present at the meeting were Commissioners: Alan Schapiro, Anthony Olenik, Daniel Puszka and Jordan Schiffman, Commissioner Elect Michael Wolfensohn, Treasurer Rose Cohen and Secretary Joseph P. McConnell

The Organizational meeting was called to order by Commissioner Anthony Olenik.

Notary Public/Commissioner Jordan Schiffman administered the Oath of Office to Commissioner Elect Wolfensohn.

Commissioner Wolfensohn nominated Commissioner Olenik to be temporary Chairman, Seconded by Commissioner Schapiro, All in Favor.

Commissioner Olenik nominated Alan Schapiro as Chair of the Board of Fire Commissioners, Seconded by Commissioner Wolfensohn, All in Favor.

Chairman Schapiro nominates Dan Puszka as Vice Chair of the Board of Fire Commissioners, Seconded by Commissioner Wolfensohn, All in favor.

Secretary McConnell confirms that all regular media outlets were notified of the Annual Organizational Meeting via the Districts' web site, a push list email, and notices at both fire stations, notices at the Town of New Castle and the Millwood Post Office as well as a legal notice which was posted in the Journal News.

Commissioner Olenik made a motion to allow non-District residents to hold the post of Secretary/Records Management Officer and Treasurer, Seconded by Commissioner Wolfensohn, All in Favor.

Commissioner Olenik nominated Joseph P. McConnell for the position Secretary and Records Management Officer at an hourly rate to be determined, Seconded by Commissioner Wolfensohn. All in Favor.

Chairman Schapiro nominated Rose Cohen for the position Treasurer at an hourly rate to be determined. to be paid monthly, Seconded by Commissioner Schiffman, All in Favor.

Notary Public/Commissioner Schiffman administered the Oath of Office to Treasurer Rose Cohen.

Notary Public/Commissioner Schiffman administered the Oath of Office to Secretary Joseph McConnell.

Chairman Schapiro made a motion to retain the firm Kornfeld, Newman, Rew and Simeone as the Districts Legal Counsel at \$275.00 per hour with a minimum of two hours. Seconded by Commissioner Schiffman. All in Favor.

Commissioner Wolfensohn requests that the Treasurer submit the Annual Financial Update Document, for 2021 at the February monthly meeting, Seconded by Commissioner Olenik. All in Favor.

Chairman Schapiro made a motion to designate the Journal News as the official District newspaper, Seconded by Commissioner Schiffman. All in Favor.

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Commissioner Wolfensohn made a motion to designate JP Morgan Chase bank as the official bank for the fire district a maximum value of accounts of approximately \$ 2,100,000, Seconded by Commissioner Schiffman, All in Favor.

Commissioner Shapiro nominates Dan Puszka as the designated back-up signee for the Chase.com account, Seconded by Commissioner Wolfensohn, All in favor.

Commissioner Olenik moves that the District join the following Organizations, Seconded by Commissioner Wolfensohn. All in Favor.

- Association of Fire Districts, State of NY (annual cost \$500)
- Association of Fire Districts, County of Westchester (annual cost \$400)
- Westchester County Association of Fire Chiefs (annual cost \$400)
- NY State Association of Fire Chiefs (annual cost \$175)
- National Fire Protection Association

Chairman Schapiro requests the Secretary confirm that the District domain of [www.millwoodfiredistrict.org](http://www.millwoodfiredistrict.org), is active. Secretary McConnell confirms it is and that the domain names are paid through February, 2024.

Commissioner Wolfensohn moved that District Monthly Meeting would be held on following dates and to post in official newspaper and to file receipt and distribute by other approved notification channels, Seconded by Commissioner Olenik. All in Favor.

January 11 <sup>th</sup>	Organizational Meeting
January 24 <sup>th</sup>	Regular Meeting
February 21 <sup>st</sup>	Regular Meeting
March 21 <sup>st</sup>	Regular Meeting
April 25 <sup>th</sup>	Regular Meeting
May 23 <sup>rd</sup>	Regular Meeting
June 20 <sup>th</sup>	Regular Meeting
July 25 <sup>th</sup>	Regular Meeting
August 22 <sup>nd</sup>	Regular Meeting
September 19 <sup>th</sup>	Regular Meeting
October 18 <sup>th</sup>	2023 Budget Public Hearing
October 24 <sup>th</sup>	Regular Meeting
November 21 <sup>st</sup>	Regular Meeting
December 19 <sup>th</sup>	Regular Meeting
January 10 <sup>th</sup> , 2023	Organizational Meeting

Chairman Schapiro designates LOSAP funds manager as Glens Falls National Bank (Administered by Penflex) Seconded by Commissioner Wolfensohn. All in Favor.

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Commissioner Schiffman made a motion to designate Interstate Diagnostics for physicals and labs; Partner's in Safety, Inc. as alternative if firefighters cannot meet Interstate's posted schedule, Seconded by Commissioner Wolfensohn. All in Favor.

Commissioner Wolfensohn made a motion to designate Arcuri Alarms for security at Station 2 and Open Systems Metro for Station 1. Seconded by Commissioner Schiffman, All in Favor.

Commissioner Wolfensohn made a motion for the Millwood Fire District to participate in the Westchester County and NYS Mutual Aid Plan. Seconded by Commissioner Schiffman, All in Favor.

Commissioner Wolfensohn made a motion to approve the following District consultants, Seconded by Commissioner Schiffman, All in Favor.

- New Firehouse & property attorney: Farrell & Fritz
- Insurance Agents: Hubbinette Cowell & Associates
- Workman's Compensation Insurance: Fire Districts of NY Mutual Insurance Company
- Auditors: RBT, LLC
- LOSAP Administrator: Penflex
- Chief's Aid: Greg Santone at an hourly rate to be determined
- Vehicle Consultant: Emergency Vehicle Response
- District Website Host: Homestead
- Brad Pinsky Law Group, LLC.

Commissioner Wolfensohn made a motion to authorize the following committees and committee Chairs, Seconded by Commissioner Schiffman, All in Favor.

- Buildings and Grounds, and Maintenance; Commissioner Olenik & Puszka, Co-Chair
- Legal, Leases, & Contracts; Commissioner Schiffman, Chair
- Company Health & Welfare: Vitality, Annual Inspection, LOSAP, Uniforms; Commissioner Puszka, Chair
- Firematic Investment, Equipment Maintenance, Truck Replacement; Commissioners Olenik & Puszka, Co-Chairs
- Information Technology; Commissioner Schapiro, Chair
- Public Information; Commissioner Schapiro, Chair
- Administrative; Records Management, Audit, Elections; Commissioner Olenik, Chair
- Policy, Procedure, and By-laws; Inventory, Review and Recommend Improvements, Commissioner Wolfensohn, Chair
- OSHA & PESH Requirements; Commissioner Wolfensohn, Chair

Chairman Schapiro moved that all standing policies and procedures and by-laws applicable in 2021 apply in 2022, Seconded by Commissioner Olenik, All in Favor.

### **WORKING SESSION**

Commissioner Wolfensohn made a motion to adopt the adjusted December 20, 2021 minutes, Seconded by Commissioner Olenik, All in Favor:

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Whereas, a Hearing was conducted on October 28, 2021 before Arbitrator /Hearing Officer Steven C. Kasarda in Matter of Disciplinary charges between The Millwood Fire District against Robert Correra ("the Hearing ") and,

Whereas, an Award dated January 5, 2022 by Arbitrator/Hearing Officer Steven Kasarda in that matter ("the Award") and as a result of that Hearing and Award,

**A motion was made by Commissioner Schiffman, seconded by Commissioner Wolfensohn to accept and adopt the Award's Finding of Fact, which stated as follows:**

The Record reflects the following Exhibits:

State of New York- Workers' Compensation Board  
In regard to Robert Correra, WCB Case #F304 0104  
MEMORANDUM OF BOARD PANEL DECISION

At a hearing held on November 19, 2008, the parties enter into a written stipulation of settlement providing for the claimant to be classified with a permanent partial disability with ongoing benefits at the rate of \$268.00 per week. Pursuant to the parties' stipulation, the Workers' Compensation Law Judge (WCLJ), among other things, classified the claimant with a permanent partial disability and directed the carrier to continue payments subsequent to the hearing at the permanent partial disability rate of \$268.00 per week, without specifying a percentage of the claimant's loss of earning capacity under Volunteer Firefighters' Benefit Law § 10(1)(g).

The Record also reflects the "Inter-state Diagnostic Firefighter Health Assessment Form." that in November 2020, was filled out and signed by the Respondent. That form reflects that the Respondent answered "No" to the following questions:

"Do you have a history of, or are you being treated for: ...Disorder of back, spine, neck, bones, arthritis, gout, muscles or nerves, any amputation". ANSWER "No"

"Do you have a physical or mental disability". ANSWER "No".

"Have you ever been found to have a physical or mental disability or impairment by any government authority/agency or Insurance Carrier that would entitle you to benefits of any kind. List details."  
ANSWER "No"

This form also contains an attestation clause which was signed by Respondent that the information provided was "complete & true to the best of the firefighters knowledge".

Commissioner Schapiro	Aye
Commissioner Schiffman	Aye
Commissioner Wolfensohn	Aye
Commissioner Olenik	Aye
Commissioner Puszka	Abstained

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**A motion was made by Commissioner Schiffman, seconded by Commissioner Wolfensohn to accept and adopt Arbitrator Kasarda's Decision on Charge 1 as set forth in the Award:**

*THE CHARGE BEING:*

It is alleged that you [Robert Correra] falsely completed a form used by a physician of the fire district to determine whether or not you are physically capable / qualified to serve in any operational capacity, including but not limited to serving as an interior firefighter. You are charged with providing such information which was known to be false to you.

This form required you to provide any medical or physical disabilities and/or restrictions and you did not notify the physician that you have been determined to be "permanently, partially disabled.". Such designation by the New York State Workers' Compensation Board could disqualify you for various operational positions and was relevant to a physician's determination as to your ability to serve in one or more operational capacities.

You were aware that you were deemed disabled as a result of an injury sustained on November 5, 2004. You knowingly withheld this information when asked and you knew that such designation would have an impact on your clearance for an operational position in this fire department.

*THE ARBITRATOR'S DECISION stated as follows :*

It is clear from the Record that in November 2018, Respondent [Robert Correra] was found to be permanent partial disability by the Workers' Compensation Board. It is also equally clear that at the time Respondent had completed his medical evaluation form in November 2020, when Respondent answered the medical questions about said disability, his provided answers were untrue. As such, Respondent provided false information to the doctor who was charged with making a proper evaluation of Respondent's physical health and abilities.

The Record also reflects the testimony of Ms. Carbone, who is employed at Interstate Diagnostic as the health and wellness coordinator. Ms. Carbone testified that Dr. Rosarian questioned Respondent about his disability status and when he answered that he did not have a disability. This fact was also confirmed by Dr. Rosarian's own testimony.

Ms. Carbone opined that had the Doctor not been aware that there was a contrary answer on another form, Respondent would have been incorrectly cleared as an interior firefighter. Ms. Carbon testified that Respondent had previously told Dr. Rosarian that his back issue was "resolved" which is inconsistent with this Record since Respondent was classified by the Workers' Compensation Board as "permanently" disabled.

Also inconsistent with the Record is the Respondent's explanations for providing said false information. Respondent answered to "Have you ever been found to have a physical or mental disability or impairment by any government authority, agency, or insurance company that would entitle you to benefit of any kind" as "no". During his testimony, Respondent explained that he believed it was accurate "at the time" because he "wasn't disabled by any medical information." Based on the Record this is also not true, since he had been found by the Workers Compensation Board to be "Permanently Partially Disabled." The Respondent also offers another explanation for answering "no" to the exam question on whether he had ever been treated for a "disorder of the back" was that he did not believe his injury to be a "disorder" as he assumed that "disorder" meant "disease" and not an injury. These as well as other "explanations" offered by the Respondent are found to be not credible.

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Based on the above, as to the Charge 1, Respondent is found guilty of providing false information on the November 2020 medical questionnaire, it is indisputable that the answers to each one of the three questions was knowingly and intentionally false. The documentary 19 evidence in the Record along with the testimony of both Ms. Carbone and Dr. Rosarian also established that Respondent gave false information to Dr. Rosarian when specifically asked if he had any disabilities. Furthermore, Respondent offers no credible explanations for his false answers.

Commissioner Schapiro	Aye
Commissioner Schiffman	Aye
Commissioner Wolfensohn	Aye
Commissioner Olenik	Aye
Commissioner Puszka	Abstained

**A motion was made by Commissioner Schiffman, seconded by Commissioner Wolfensohn to accept and adopt Arbitrator Kasarda's Decision on Charge 2 as set forth in the Award:**

*THE CHARGE BEING:*

That on or about September 8, 2021 after and during the point where Mr. Carrera [sic] was suspended from operational activities, Mr. Carrera committed misconduct and was insubordinate for each and every one of the following reasons, collectively and separately: that Mr. Carrera obtained a physical from a physician at the cost of the district; that such physical was not provided by Interstate Diagnostic, the District's provider of physicals; that Mr. Carrera failed to provide the most up-to-date job performance requirements to this physician that conducted the physical; and that there was no proof that Mr. Carrera provided proof of his disability determination from the Worker's Compensation Board to that physician.

*THE ARBITRATOR'S DECISION stated as follows:*

The Respondent [Robert Correra] is charged [with] insubordination. In specific, Respondent is accused of violating the Chief's order that Respondent is not participate in any operational activities. The Record reflects an email dated March 3, 2021, from Chief Raguso instructing Respondent that his "operational response privileges are being removed as a result of your department physical".

In regard to this charge Respondent testified that to him, the phrase "operational activity" meant "I cannot show up and do what I was doing prior". Respondent also testified that he obtained a physical, at the District's expense, in September 2021 from another medical provider other than the District's medical provider. In doing so, Respondent, totally disregarded the Chief's Order.

Respondent admitted that he was not told to get an exam. Furthermore, the Respondent failed to provide this new doctor the District's firefighter Job Performance Requirements, even though Respondent was aware that these were adopted.

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Based on the above, Respondent knew that his operational privileges had been revoked but chose to obtain a physical without permission. He also failed to provide the physician with the new Job Performance Requirements. For these reasons, Respondent is found to be guilty of Charge 2.

Commissioner Schapiro	Aye
Commissioner Schiffman	Aye
Commissioner Wolfensohn	Aye
Commissioner Olenik	Aye
Commissioner Puszka	Abstained

**A motion was made by Commissioner Schiffman, seconded by Commissioner Wolfensohn to accept and adopt the Arbitrator Kasarda's Penalty and Recommendation, as set forth in the Award, which states as follows:**

In assessing the appropriateness of a penalty, consideration should be given to the 20 the Respondent's length of service, prospect of deterrence of the individual or of others and the reasonable prospect of recurrence of derelictions by the individuals or persons similarly situated.

The Record demonstrates the Respondent's blatant disregard for the rules and regulations of the department, superior officer's orders, the safety of other members of the District and the safety of the general public. The Respondent lied on medical forms in an effort to be medically approved as a firefighter. Furthermore, the Respondent ignored a directive and contacted a medical provider in an effort to circumvent the approval process.

Although the sanction of termination is a severe remedy, the Record repeatedly establishes by substantial evidence, that Respondent's conduct is one of disregard for the District, his Superior Officer, and the safety of the general public. Furthermore, with respect to an alternate penalty, the Respondent has not provided any evidence that this disregard for authority and lack of truthfulness will not continue if reinstated.

Furthermore, the Respondent provides no valid explanation, remorse or evidence of mitigating circumstances surrounding his conduct. As such, the penalty of termination cannot be said that to be so disproportionate to the offense as to be shocking to one's sense of fairness.

This Arbitrator recognizes the serious effect on the fulfillment of important public responsibilities that may flow from ineffective fire district discipline and for all these reasons stated above, termination is the only appropriate penalty.

The ARBITRATOR'S RECOMMENDATION stated as follows:

Accordingly, a review of the entire Record as a whole, supported by substantial evidence, I find the Respondent guilty of Charge 1 and Charge 2. As such, for the reasons stated above, I recommend that the Respondent be terminated

Commissioner Schapiro	Aye
Commissioner Schiffman	Aye
Commissioner Wolfensohn	Aye
Commissioner Olenik	Aye
Commissioner Puszka	Abstained

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**A motion was made by Commissioner Schiffman, seconded by Commissioner Wolfensohn that based on the Hearing and the Award in which Arbitrator Kasarda found Robert Correra guilty on the Charges that were the subject of the Hearing together with the Findings of Fact, the Penalty and the Recommendation in the Award, the Millwood Board of Fire Commissioners terminate Robert Correra as a firefighter in the Millwood District effective immediately on this day, January 11, 2022.**

Commissioner Schapiro	Aye
Commissioner Schiffman	Aye
Commissioner Wolfensohn	Aye
Commissioner Olenik	Aye
Commissioner Puszka	Abstained

Commissioner Wolfensohn made a motion to adjourn the meeting at 8:35 PM. Seconded by Commissioner Schiffman. All in Favor.

Joseph P McConnell  
Secretary